TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

1:00 p.m.

Wednesday, July 13, 2011

Room 1.B1
Building 150
200 East Riverside
Austin, Texas 78704

BOARD MEMBERS:

Victor Vandergriff, Chair Cheryl E. Johnson, Vice Chair Cliff Butler Blake Ingram Victor Rodriguez (absent) Marvin Rush (absent) Laura Ryan (absent) Johnny Walker

STAFF MEMBERS:

Ed Serna, Executive Director Brett Bray, General Counsel

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PROCEEDINGS

MR. VANDERGRIFF: Good afternoon. My name is Victor Vandergriff, and I'm pleased to welcome you here today to the meeting of the Board of the Texas Department of Motor Vehicles. I'm now calling the meeting for July 13 and 14, 2011 of the Board of the Texas Department of Motor Vehicles to order, and I will note for the record that public notice of this meeting, containing all items on the agenda, was filed with the Office of Secretary of State on July 1, 2011.

This meeting of July 13 will begin with agenda item number 1 and is expected to continue at least through the subsequent items going through item number 3. For your information at this point, digressing briefly, I think that we will also be bringing up item number 7.B, which is consideration of the Motor Carrier MOU between TxDOT and TxDMV, and it is possible, depending upon how our meeting goes, that we will bring up the consent agenda as well during all of this.

We do have a couple of contested cases or a contested case and some warranty performance cases that will be definitely on the agenda for tomorrow, as well as recognition for Ramsay Gillman who departed us last month. The meeting of July 14 will begin at 9:00 a.m. and we'll continue with the agenda items we don't cover today,

concluding, obviously, any unfinished business from this meeting.

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All agenda items are subject to possible discussion, questions, consideration and action by the Board of the Texas Department of Motor Vehicles. Agenda items are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the board. The board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode.

And if you wish to address the board during today's meeting, please complete a speaker's card at the registration table in the back of the room. To comment on an agenda item, please complete a yellow card and identify the agenda item. If it is not an agenda item, we will take your comments up during the public portion of the meeting.

And now I'd like to have a roll call of the members present, of all the board members.

Board Member Butler?

MR. BUTLER: Here.

MR. VANDERGRIFF: Board Member Ingram?

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MR. VANDERGRIFF: Board Member Walker?

MR. WALKER: Present.

MR. VANDERGRIFF: Vice Chair Johnson?

MS. JOHNSON: Here.

MR. VANDERGRIFF: And let the record reflect that I, Victor Vandergriff, am here as well. We do have a quorum. The record would reflect that Board Members Rodriguez, Rush and Ryan are absent today.

Our next item of business is public comment.

Is there anybody in the audience? I didn't have any cards but if anybody would like to speak on a particular topic not pertaining to a particular issue item on the agenda,

I'd be happy to consider it. I don't see any.

I do want to note again, we're going to do this formally tomorrow, but the sorrow that I personally have and I know the rest of the board has with the passing of Ramsay Gillman. It was very obviously untimely and we will duly miss him here, and as I said, we'll note it more formally and allow all board members to comment if they wish tomorrow at the public session. I do know that his daughter, Stacy Gillman, is going to join us, and I believe her brothers are coming as well, so we will have family members from the Gillman family here present with us.

The next item is briefings and possible action. These are administrative updates. I know we have some members of the public out there, stakeholders, if anyone has any item they wish to comment on from a stakeholder's perspective, we're happy to do that.

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Seeing none, I would like to call your attention first to the first item here on the advisory committees. We'll cover this a little later when we talk about the MOU, but we are going to be standing up an advisory committee to assist the department in identifying the issues with respect to the transfer of the oversize/overweight permitting process and the remaining functions at Motor Carrier for this department. And again, Mr. Serna and our board member, Mr. Walker, will address that here shortly, but we will have that.

And then we also, in addition to that, will have an advisory committee that will be posted shortly that Molly Cost is taking up with respect to interpretation issues perhaps that the industry might feel are appropriate for this body to address on what we'll refer to as Senate Bill 529. That was the bill with some new policy with respect to dealer and manufacturer franchise issues and perhaps some other rulemaking areas within that general body of statutory language. So we will see that come shortly.

I don't know if, Ms. Cost, there's anything you want to add on that at this point on this particular item.

Did I cover that sufficiently? So we'll get that information out to everybody.

We have had considerable media attention of the agency on a few items. Most particularly is an item that this board tied up on in a vote, 4-4, and that was a speciality license plate, and I want to make sure, I think it's been publicly and accurately reported of what I said we would do once we had a full nine-member board which was to consider that plate so that the full board could vote on that, even though by Robert's Rules of Order a 4-4 tie is a defeat, if you will, but the plate could come up again and be re-branded and it would come back to us, it just may take a little bit of time. So we will take that up again.

Obviously, we had an untimely death. That doesn't affect today per se, even if Mr. Gillman was still with us, because we would have two members absent. We know for certain we'll have a couple of members absent in August, so just for the public's knowledge, and of course this meeting, do not anticipate that plate coming back up again until the fall, and we certainly will have adequate notice to the public on that. I know that our media department and several of us are being kept abreast of

people calling, writing or emailing in on that issue.

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The legislative side of our business, we do have a particular time that we'll come back to here in just a second on legislative reports, which Jeremiah Kuntz and the staff will cover.

And then I won't go any further into strategic planning, budget or audit because we've got people particularly that will follow those, but do want to note, board members, for your benefit, and we certainly have it available to the public is the meeting schedule for 2012 based upon our meeting on the second Thursday of every month.

Both full years that we've been in existence, this being the second full year that we've been in existence, we actually didn't meet in February of both of those years and we also missed one meeting, obviously in deference to Mr. Gillman this year, but I suspect that we may not meet all twelve months but we wanted to make sure for everybody's planning purposes that you block that date and perhaps the day ahead of that and we wanted to get that to you well in advance of the end of the year.

And so with that, I think that we do need -I'll look at Dawn, do I need to bring you up now on some
of this or can you cover that under the executive
director's purview because you have several things, I

believe. I do think since it is a board issue, perhaps the internal audit issue, you've got that on the agenda to update us so we'll do it at that point, but I don't know if any of the others. Why don't you come up and address a couple of the other ones, if you would.

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MS. HEIKKILA: Mr. Chairman, board members, my name is Dawn Heikkila. I'm the chief operating officer for the Department of Motor Vehicles.

One of the first things I'd like to do is formally introduce our chief information officer to you all. Gary Gordier began his employment with the Department of Motor Vehicles on June 1. Gary is the former CIO for the cities of El Paso Texas and Fort Collins, Colorado. He's got more than 40 years' experience managing information technology in both the public and the private sectors. He programs in multiple languages, he's developed, designed and implemented multiple enterprise scaled systems which is something that we definitely need here. He has experience in networking and delivering modern systems and he has over 30 years of experience managing IT professionals.

So if you'll help me welcome Gary. I'm very excited to have him, he's been really great so far.

MR. VANDERGRIFF: Welcome aboard, Gary.

MS. HEIKKILA: Mr. Chairman, what would you

like to cover next?

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MR. VANDERGRIFF: I think the others are going to be covered under Ed's side. I wanted to make sure we brought up Gary at this point. Thank you very much.

A couple of items I did want to go back and note that I failed to earlier. One is really a lot of people from the department, I don't know how many total but certainly over 20, I believe, or at least close to 20 from the department went to the annual Tax Assessor—Collector conference in Corpus Christi, and I went as well briefly for one day of that, and spoke with the executive committee of the association. And certainly from my perspective, but I think also Ed would agree with this and other staff members, there was a very warm reception for the Department of Motor Vehicles there. And the vice chair was there was well, and she's nodding her head and I'll ask if she has anything she wants to add to that. But was very appreciative of the reception we had.

MS. JOHNSON: We had several presenters, and I don't want to forget anybody, but I know Mr. Serna spoke, Mr Elliston spoke and Ms. Booton, and their presentations were absolutely wonderful. And my opinion was too that the tax assessor-collectors were very happy to have everybody there, they know that they have good support from the DMV, and I think they seemed very, very pleased

with everybody they were talking to and what they were hearing. It was very good.

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MR. SERNA: I will comment that they normally do treat the DMV staff nicely but they may have treated us a little bit nicer because we had a board member there. But a lot of the staff that were there, like Victor, were there for a day and then came back or were there working a booth that we had demonstrating some of the technology that we're rolling out or getting ready to roll out.

MS. VANDERGRIFF: And with that, I think, Mr. Serna, we might be to you.

Oh, I'm sorry, we have the committee reports.

I want to talk about the organizational assessment, but

I'll ask Johnny for any updates that you have or the work
that your committee has been doing.

MR. WALKER: Well, Dawn is going to give us a report on all those updates on what we're going to do there. She's summarized it all and I've reviewed it and it looks perfect, and any mistakes she makes, I'll correct her.

(General laughter.)

MS. HEIKKILA: I'm sure you will. Appreciate the support.

For the record, my name is Dawn Heikkila, chief operating officer for the Texas Department of Motor

Vehicles.

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The Projects and Operations Committee did not actually meet last month, but I have updates on the most pressing or ongoing projects we have. The largest one is the equipment replacement project. We're clicking along, the RTS work station has been identified and tested to make sure that it works with the current system, and we're getting ready to submit the purchase order, we hope, in the next week and a half. The team is currently evaluating the costs associated with several options, trying to leverage economies of scale and find out what would be the best value for the state.

We're looking at two options: one is purchasing the equipment and contracting with a vendor for installation, versus contracting with a vendor to purchase the equipment on our behalf and install it, and we haven't quite finished the cost comparison with that yet. If project funding is available because of some of the efficiencies that we're realizing, we want to go ahead and look at the possibility of addressing end-of-life routers that are out in the ethernet site. Some of those routers are old and no longer being supported. If we have extra funding that we can use this year, we should go ahead and do that. That kind of helps us get out ahead of the whole equipment replacement project.

The project has been divided into two pieces that will run in parallel at the same time; otherwise, we're going to run into some real challenges getting everything accomplished. So we're looking at the actual RTS equipment and installation as one pieces of the project, and the networking equipment and cabling and installing of the network equipment as a second project.

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Based on some feedback that we got from attending the TACA conference and visiting some of our local tax offices, the project is kind of looking, we're going to need to reevaluate the approach we've taken to printers. It's pretty obvious that the one-size-fits-all model isn't going to work, and several of these locations have varying business needs in how they're using this equipment, so we want to make sure that we're being as efficient as we can in addressing our partnership needs as well as being mindful of the money we have to spend.

MS. JOHNSON: Since he poked me, I have to say. Who's deciding who gets what printers, and I imagine this is being what I was told and you can let me know if this is right or not, is that it's based on volume of stickers, their volume of use.

MS. HEIKKILA: That seems to make the most sense.

MS. JOHNSON: It does make sense.

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MS. HEIKKILA: Sites that have really high transaction volumes are cranking out a lot of copies; it makes more sense to put durable, more heavy-duty equipment in those sites as long as the budget will support that. And then there might be instances where a medium-duty printer might be appropriate or regular-duty, depending on, again, transaction volume and the way that they're using the equipment. So it was really helpful for me to go out and actually look at some of these sites and visit with some of these folks and get some feedback.

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MR. WALKER: She has another question too.

MS. JOHNSON: What other equipment is being replaced? We've been asked to provide a preference for when things are going to happen from our regional offices, but we don't know what's being delivered so we don't know how to schedule.

MS. HEIKKILA: Right. The primary focus of the project was the RTS work stations. The PCS, the printers, the monitors, several of the sites and the identified sites that are still running on a token ring network, those sites have different needs because their networking equipment has to be replaced as well. So we have to look at cabling, we have to look at the actual location, whether it's in a historic site, do we need to pull new cabling.

So one of the reasons we're doing this survey is so that we can look at are here sites out there that are currently doing some remodeling work. Like Dallas County is currently doing a remodeling project; that might be the prime opportunity to go in and pull new cabling when they have everything open. You know, is there anybody planning to move from one location to the other. We certainly don't want to deploy equipment in one location and have to come back later and re-deploy because that's not efficient for anyone.

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We're trying to be mindful of when are the heavy workload peaks, the first of the month, the last of the month, lots of feedback on that, not interested in doing it that way. Some of the smaller offices, maybe they want to do a rolling install during the lunch hour, some of them are even entertaining after-hours or on the weekend installment. So we're trying to be as flexible as we can to mitigate the impact on operations.

MS. JOHNSON: So should we expect all RTS work stations to be replaced or only ones that have been identified of a certain age?

MS. HEIKKILA: All RTS work stations.

MS. JOHNSON: So we need to anticipate about ten stations, that all those are going to go. That makes a difference for us to schedule.

MS. HEIKKILA: The number of work stations 1 being replaced in each county is based on what the 2 3 allocation model supported. MS. JOHNSON: Okay, perfect. Thank you. 4 MR. WALKER: Dawn, we might want to take and 5 6 do -- and I'm not saying we're not doing this, but we might want to look at improving upon the communications 7 between the tax assessors and our installers because 8 coming up here today one of the questions Cheryl asked me 9 that I couldn't answer was how much time -- I think 10 they're coming into Galveston County next week, she said. 11 MS. JOHNSON: I think the end of the month, the 12 13 end of August. 14 MS. HEIKKILA: Installers? MS. JOHNSON: We've been told to plan towards 15 the end of the month. I have to go back and read the 16 email, but it's coming up during August. 17 MR. WALKER: And the real question is we don't 18 know what to anticipate with are we going to shut down, do 19 20 we need to do this on a weekend or is there something we can still operate our office. There just needs to be a 21 little bit of communication on what to anticipate. 22 23 MS. HEIKKILA: Absolutely, and again, that's critically necessary to mitigate any delay or stoppage. 24

We don't want to impede your business at all, so we

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definitely need to work together. And that's one thing that we've told the project team from the very beginning, but we have to get the purchase orders issued before we can get the vendors selected to do the install, and at that point then we have to work on logistics. But absolutely we have to coordinate with the counties.

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MS. JOHNSON: And they might be asking us do we have anything scheduled through August 31 to make sure that we're clear. Okay. Perfect. Thank you.

MS. HEIKKILA: The known enhancement to the existing system, or the KEES project, we have a release coming out at the end of August that has several functionality enhancements in it, capturing vehicle color at registration in the tax offices, addressing disabled placards, temporary permits, special plate inquiry, updating some forms, and creating a messaging system. Additionally, any of the real critical legislative updates that need to be addressed by September, we're trying to include those as well. Additional urgent legislative updates are going to be included as quickly thereafter as The project team is finalizing business requirements for those items that have been passed into law. Additionally, the KEES project and staff have moved into the IT Department, and the LACE [phonetic] project is going to be rolled into the KEES project as well.

On the web-based or web agent project, the web agent that has the two pieces, the web sub which is the project that allows our subcontractors to connect to the RTS system by a URL through the internet so that hopefully we don't become so dependent on old equipment that gets outdated and we can't keep up with it. And it's just streamlining business. It also facilitates the actual registration process by creating a pending registration that the counties can actually see and it provides for better security as far as accounting for the transactions and the fees that needed to be collected. The web dealer will start later and will address the registration with applications or the RTS piece done by motor vehicle dealers.

The project team is developing a revised project schedule that's going to look at things like finalizing the initial application development and working with Williamson County to pilot the model office in anticipation of the limited deployment and ultimately the statewide deployment for that project.

The business process analysis project is in the process of completing and delivering the as-is business process maps and narratives as described by the various process owners and subject matter experts in our various work areas. The business process information gathering

and documentation sessions are well underway at this time.

Ed may have some additional information he wants to share on that. Beginning in May the project team began conducting interviews with selected external stakeholders.

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MR. SERNA: Very quickly let me just add to the board some of the people that were attending, for example, the TACA conference were members of the business process analysis team and the reason that they went was to be able to meet with the tax assessor-collectors and capture some of that information. Beginning in early August they'll start having work sessions on describing the to be which is very important to us because that will describe working with our employees and our stakeholders, that will describe what we want to do and how we want to do it, and from that information is where we'll pull the requirements that we'll use for the acquisition of new equipment. So we're on track for that for a December completion, so that was our original target and we're still on track.

MS. HEIKKILA: That's right, which is a nice segue into the information legacy application analysis project, which is the mapping of the IT side, the as-is and trying to get us to our future state.

Two of the identified project tangibles have been completed: the key personnel report which identifies and documents the assigned personnel responsibility for

helping us map these assets and applications, and then also it's kind of a dictionary containing application work-arounds, data pulls, database copies, that kind of thing. So this project is scheduled to conclude in December in conjunction wit the BPA, and we plan to use the information that we get out of the ILAAP project to enhance the requirements we need for the technology solution we're going to seek to modernize our business processes.

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The Licensing, Administration, Consumer Affairs and Enforcement, or the LACE project, given at where we're at with the BPA, it's recognized that significant process changes may occur within that program area, so in consultation with our new CIO we've kind of decided that it might be necessary to suspend continued development on the rewrite process until we figure out what exactly the program changes are going to look like and then incorporate that into the bigger technology solution. That's what we believe to be the most efficient use of the resources we have available right now.

The My Plates project, just going down really quickly, the new orders processed during the month of June 3,604. The general revenue fund received \$324,740 out of a total gross revenue of \$887,640, the vendor recognized a revenue of \$450,372, and then the DMV received \$105,400.

MR. SERNA: One thing I wanted to point out before we get off the numbers, just to kind of clarify to the board, in Dawn's report when we talk about the DMV received, the money that we receive goes into Fund 6, it doesn't come into our budget or our coffers or we don't spend it, so that's an additional amount of money that goes into Fund 6.

MS. HEIKKILA: Revenue deposited to Fund 6 but attributable to the DMV.

MR. SERNA: Right.

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MS. HEIKKILA: The My Plates program has been operational for 20 months of their 60-month contractual agreement. During this time they have an obligation to generate \$25 million to the state's general fund, and to date the program has deposited a cumulative total of \$5,268,984 to the general fund.

MR. VANDERGRIFF: Is it possible to get a trend line on that or a trend report in the future?

MR. WALKER: I can help you because I've already done that. And the answer is yes, they're on target.

MR. VANDERGRIFF: Well, I think the board would love to see that.

MR. WALKER: If you look there's only less than \$20 million left, there's 40 months, if you divide that

they're almost at a consistent number right now if they just stay where they're at. So there's been a pretty good growth trend; that's what I've watched -- which is shocking to me.

MR. INGRAM: That all sounds good. I'm kind of a visual person so if I can see it on a graph. And it's \$5 million thus far to the general fund, and that's how many months?

MS. HEIKKILA: Twenty months.

MR. INGRAM: Thank you.

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MS. HEIKKILA: That concludes my project update. If there's any questions, I'd be happy to answer your questions.

MR. WALKER: There's a clause in our contract with My Plates that's getting six months away from now where we have to reevaluate the program and make an assessment of where the program is.

MR. SERNA: Yes, sir, and at that point we'll sit down with the vendor, we'll of course seek input from the Projects Committee, we'd sit down with the vendor and determine if we need to make any changes to the contract. If they, of course, need to make any changes to the contract, they'll approach us. And if there are going to be any contract changes, we'll bring those back to the board before we do anything.

1	MS. HEIKKILA: Anything else?
2	MR. WALKER: Good job, Dawn.
3	MS. HEIKKILA: Thank you.
4	MR. VANDERGRIFF: Any other questions of Dawn?
5	I don't see any. Thank you.
6	Mr. Walker, do you have anything further?
7	MR. WALKER: No, sir.
8	MR. VANDERGRIFF: Okay. I realize we've got
9	the internal auditor coming up which is under Mr. Butler,
10	but do you have anything from that side? I don't believe
11	we had a committee meeting.
12	MR. BUTLER: Dawn can do this but I'll do it
13	too. We're going to have a meeting, an interview of four
14	candidates at a time when we can all get together. Dawn
15	is going to be working with the four committee members to
16	get a common date in mind.
17	MR. VANDERGRIFF: Okay. Perhaps you can go
18	ahead and cover it since it's our agenda as item number
19	2.E.
20	MS. HEIKKILA: For the record, Mr. Chairman, my
21	name is Dawn Heikkila. I'm the chief operating officer
22	for the Department of Motor Vehicles.
23	I have the internal auditor update. This is a
24	hiring process that the board embarked on back in January.

The position officially closed February 11 and we

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received a total of 46 applications, 30 of which met the minimum requirements for the posting. During the period of March through June, as required by our hiring processes, a screening instrument and interview questions were developed, submitted to the designated board members for review and feedback, and then submitted, once approved, to our HR section before any of the applications could be reviewed or screened.

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There was a little bit of a delay during that period in this process attributable primarily to demands from the legislature. I'm sure, as you're all aware, the board and staff were very involved in this session, we had several large items coming up, and Jeremiah is going to talk to you about that.

On June 20 the questions and screening instruments were approved and submitted to HR. We received a packet of the applications that met the minimum. Linda and I screened the minimum based on the approved screening instrument and made the recommendation or sent forward the twelve top scoring candidates for consideration by Chairman Vandergriff, Finance and Audit Committee Chair Butler, Board Members Ryan and Ingram to review. And I've already heard back from Chairman Vandergriff and Mr. Butler who they would like to have selected for interviews; in visiting with Mr. Ingram

today, he's indicated what his preference is; I have not heard back from Ms. Ryan.

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Once the candidates selected for interviews have been identified then I will coordinate schedules with members wishing to participate in the interviews. I do want to make sure that everyone understands anyone that would like to participate is obviously more than welcome to participate. If we do have a quorum, we will have to post it as an open meeting and then conduct the interviews in an executive session.

The chairman has expressed a preference for a panel interview, having the board members conduct the interview with our CFO Linda Flores and myself scribing during the interviews, taking the notes. And that's pretty much where we're at so far. We have not scheduled any interviews yet, but as soon as we hear back from Ms. Ryan and I start coordinating schedules, then we'll get it set up.

Any questions?

MR. WALKER: I do. What are the functionalities of an internal auditor. I use auditors all the time to check that we're doing what we say we do but we use somebody from the outside instead of somebody from the inside because it was kind of like the fox watching the henhouse, I guess, if the auditor is

internal. So why do we have an internal auditor?

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MS. HEIKKILA: An internal auditor is not really a finance function -- and I'm going to ask Linda to come over here and help me with this a little bit -- but it is more of a risk assessment type of thing, and it's exactly what you just described: making sure that we're doing what we're supposed to be doing. And it sits independently of the rest of the agency program operations, it reports directly to the board, it is not part of our finance section.

MR. WALKER: So it's not a financial type audit.

MS. FLORES: For the record, my name is Linda Flores. I'm the chief financial officer for the agency.

An internal auditor who reports to the board has a level of independence away from departmental programs and therefore can review and examine if the agency has certain policies and procedures, that the agency is following those procedures. And they're going to develop an annual audit plan based on risk, where is the greatest risk to this agency for XYZ. They take that list to the board and get board input on yes, I want you to do this risk assessment on this, this and this. So it's more about someone who is reporting to the board with a level of independence away from the rest of the agency.

MR. WALKER: And where does a person like that gain their expertise and qualifications to do that?

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MS. FLORES: Well, most of them, the list that we saw I would say are very highly qualified, they all have financial backgrounds, accounting backgrounds, CPAs, certified internal auditor certifications, certified fraud examiner certifications. There is a correlation between an accountant and an auditor but they're going to get their expertise in the different positions that they've held. They might have started out as an accountant somewhere and made the leap over to auditing. Some individuals start out with back in my day it was the Big 8, I think now they're down to the Big 4 accounting firms.

MR. WALKER: But didn't you say, and maybe I'm wrong, that we have how many resumes in front of us, 60?

MS. HEIKKILA: We received 46 and 30 that met the minimum, and of those 30, twelve scored above -- there was a natural break between the top twelve and the next candidate down. A natural break is anything 15-20 points or higher spread. There was a total of 484 points possible. In that top twelve category they all scored 440 points or higher on the screening instrument. The screening instrument is looking at skill sets, it's looking at experience, it's looking at education, it's looking at their credentials.

MR. WALKER: Of the twelve candidates that 1 we've narrowed this down to, how many of those people are 2. 3 from within the agency? MS. HEIKKILA: None of them. 4 MR. WALKER: And how many of them are coming 5 6 from other state agencies? I'm just trying to grasp where 7 these people are coming from. 8 MS. HEIKKILA: From my understanding, we received about half from the private sector. We haven't 9 specifically identified who the selected candidates are, 10 and I apologize I do not remember the credentials of the 11 top twelve, but we were all looking for that have to have 12 a CPA or a CIA, so they have to be a certified internal 13 14 auditor, and they've got a credentialing agency, a national credentialing group out there that actually looks 15 at their background, their education. There's continuing 16 education requirements. 17 MR. WALKER: So all the candidates had to be at 18 least a CPA. 19 MS. HEIKKILA: Yes. 20 MR. WALKER: And that was where my question 21 went a while ago. 22 23 MR. VANDERGRIFF: All of them had significant

auditing experience, including most of them in areas of

internal audit like we're talking about.

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1	MR. WALKER: There's the answer to my question.
2	MR. VANDERGRIFF: I just checked through my
3	notes and they have significant experience of the top
4	twelve.
5	MR. WALKER: That answered my question. Thank
6	you very much.
7	MR. VANDERGRIFF: I just would note on that
8	point I was pleased at the quality of the people who
9	applied. I thought it was a good group for what we were
10	looking for.
11	MS. HEIKKILA: [Inaudible].
12	MR. WALKER: What was the salary range for that
13	position?
14	MS. HEIKKILA: I guess the top end was about
15	\$85,000. I'd have to go back and look at my notes. That
16	was something that was established when Mr. Campbell was
17	still on the board.
18	MR. BUTLER: Dawn, it was 89- to 134
19	MR. WALKER: Oh, so that's the bottom end.
20	MS. HEIKKILA: Right, but there was some
21	dialogue back and forth where I think we capped it at the
22	first half of the range or the first quarter of the range,
23	I forget exactly what. There was a ceiling set.
24	MR. WALKER: Is it 134- or 89-?
25	MS. HEIKKILA: It's less than the top, it's

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either right at the mid point or between the mid point and the low end of the range.

MR. BUTLER: I'd like to have that too, Dawn. I'm not familiar with that.

MS. HEIKKILA: Okay.

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MR. VANDERGRIFF: I do think that it is also a position that although the duties have already been outlined as Dawn has gone over, that over time the board may find, successors to us may find other functions for them to do, out of necessity.

MR. WALKER: So the way I understood this position, this person reports directly to the board, not to Mr. Serna.

MR. VANDERGRIFF: That's correct. Yes, he just works for us. And I will tell you, and again, not trying to compare agencies, but the internal auditor never probably dreamed that they would end up being the interface with, in effect Sunset review. That probably wasn't part of what they thought would be in their job description but it evolved that way.

Thank you very much.

We do have listed as an executive session, and I think just to kind of set the stage, the organizational assessment that we will be receiving next month, we'll discuss the rolling out of that in an executive session

after our full board meeting here today, going through all items that we will cover in the agenda. Nothing much to report there at this point other than that we do have David is here from the Azimuth Group and we're still on target to roll that out to the board next month. Thank you very much.

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I also want to note, obviously a lot of staff people have been engaged with you significantly through the process. I appreciate everybody's cooperation, coordination and expertise in that, and I specifically want to note -- I know we'll talk about this next month -- from the board's perspective, Julie Beisert has been really the interface for us and has done a great job with moving that process along. So thank you for that. It's on time and we appreciate that.

Ed, I'll turn it over to you.

MR. SERNA: Most of the stuff has been covered. I checked off things that were being addressed, either media equipment, personnel. The two things that I want to brief the board on or have Linda brief the board on on the financial side, let me talk very quickly about the FY 2012 memorandum of understanding between TxDOT and the Texas Department of Motor Vehicles.

We will again have an MOU that we'll be bringing to the board that establishes the services that

we'll receive and the fees that we'll pay for those services from TxDOT. We've taken over a lot of the functions that we previously had contracted for, financial services, purchasing services, and we continue to do that, IT as Gary ramps up his shop. As long as we're in TxDOT facilities we'll continue to need support from them for facilities and then also for some of the telecommunications infrastructure, and that's what you'll see reflected in the MOU.

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The other thing to point out, this memorandum of understanding is a little different than previous MOUs in that early on a commitment that the DMV had made is once we had our own appropriation then there were certain things that we received from TxDOT that we would begin to pay for, so we will be negotiating a rate structure with them for some of those services. So I wanted to make sure that the board saw that or knew that in advance.

MR. WALKER: I have a question. I'll be happy to wait if you're not through.

MR. SERNA: Yes, sir.

MR. WALKER: While I'm thinking about it, on this MOU that I have some concerns with, is it just strictly addressing the financial needs of the transition or is it going to also address the technical aspect of how the interaction is going to take place between the two

different agencies and how it works?

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MR. SERNA: Are you meaning the MOU?

MR. WALKER: What is the relationship between DMV and between TxDOT with respect to how we're going to get responses from engineers on road surveys, on things that make that department work and not work. Does the MOU address it or not address it?

MR. SERNA: Yes, sir. There is an MOU that will address it. That's not this particular MOU. We'll have two memorandums of understanding. The one that you're referring to -- and there's a separate agenda item for it -- the one that you're referring to is the MOU that addresses the transfer of the Oversize/Overweight function from TxDOT to the DMV.

MR. WALKER: Yes.

MR. SERNA: This particular MOU is just the standard one that we've had for the past two years that provisions the administrative support that TxDOT provides to the Department of Motor Vehicles. The reason that there's a difference, and I prefer to have two different MOUs, is that first one, the one that outlines the transition of that function will have to entail a whole lot more since it's the new transfer of functions and staff and equipment into the department from TxDOT.

But also, it needs to have very clear language

in it and it will have very clear language in it that outlines exactly what you've pointed out: the exchange of information, how that information is going to flow, the timeliness of the flow of that information because we don't want to get into a situation where now because that function is in a different agency it's taking a little bit longer to get that information that's critical to the routes.

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MR. WALKER: So why are there going to be two MOUs instead of just creating one MOU that addresses every bit of this?

MR. SERNA: The MOU between TxDOT and the DMV that discusses the transfer of the Oversize/Overweight function is going to have a lot more detail in it. This MOU, I'm going to call it the administrative MOU, is a diminishing. As we take on more and more functions, that MOU basically should go away, and once we move out of the TxDOT facilities, it should be completely eliminated.

The other MOU, the Oversize/Overweight MOU is going to have a lot more -- initially will have a lot more moving parts, one, and then two, it will be longer term because we will always be relying on TxDOT for that road information.

MR. WALKER: But if I'm not mistaken, the actual bill requires that there be an MOU of understanding

between the two agencies.

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MR. SERNA: You're correct.

MR. WALKER: And I don't think it says multiple MOU, it says that there will be an MOU between the two agencies. So what's to preclude TxDOT from coming back to us and saying we already have an MOU with you, this is how we're going to do things, and we don't get it resolved on how this agency relationship is actually going to work between the two because we hadn't done that simultaneously that we did the other one?

MR. SERNA: We are working on them simultaneously.

MR. WALKER: Excuse me for interrupting you. So you're saying we may be working on them but are we going to simultaneously present both of them at the same time?

MR. SERNA: What we want to do and what we will do is get them both executed as soon as possible. The MOU for the transfer of the Oversize/Overweight function, that statute indicated that that function needed to transfer no later than January of 2012. The administrative MOU needs to be in place no later than August 31 so that we can continue to get administrative support on September 1. Our goal is to have the Motor Carrier MOU done sooner than January but we did not want to hang up the administrative

MOU if the Motor Carrier MOU, that transition went longer than August. Because it is kind of like when we first did the transition of the divisions from TxDOT into the DMV the development of that memorandum of understanding and those negotiations took several months and we didn't want to prevent the provision of administrative services because this other issue is tangled up in it.

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MR. WALKER: Well, I may be off base, and Victor or Cheryl, somebody just tell me if I am, but it just seems to me -- and Brett, you're working on this MOU also, are you not?

MR. BRAY: The General Counsel's Office is preparing both MOUs.

MR. WALKER: It just seems to me from a business standpoint, if this were my business I was running, I would try to put those two things under one document and phase out section 1 as the need arises. It's a whole lot easier to negotiate from the strength of one document than it's going to be to negotiate two different documents.

And Les Findeisen is here, I notice, from the TMTA, and I'd sure refer to him on some of the things about the concerns that the trucking industry is going to have with respect to making sure that there's an understanding of how these two agencies interact with

respect to it's going to be critical that DMV gets this information from TxDOT in a timely fashion and not in a delay fashion of well, our engineers will get to it when we don't have to build a road. I mean, we've got to move loads down the highway of the State of Texas to service every industry in this country, and we don't want to be at the mercy of TxDOT saying well, we'll get to you whenever.

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MR. BRAY: And you're making my argument, part of my argument for why we're having two MOUs, although the main argument still stands that while it may take a while to make sure -- and we're very mindful of what you just said and we're just as committed to making sure that everybody is responsive in this relationship that is going to go on for a long time and we're not going to set an arbitrary deadline of September 1 which is the deadline for the follow-on MOU, the main MOU, because we want to make sure that we cover all of the things that you were just discussing. Our goal is to have it by September 1 but I don't want to be tied to that If it takes longer to negotiate a good deal with them.

MR. WALKER: And you're talking about just the financial MOU.

MR. BRAY: No, I'm not talking about the financial MOU.

MR. WALKER: You're talking about both MOUs.

MR. BRAY: No. I'm mostly talking about the Motor Carrier Division Oversize/Overweight transition MOU and making sure that there are adequate commitments that the Texas Department of Transportation will, in fact, provide that information to the Department of Motor Vehicles timely and accurately.

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MR. SERNA: Next year when the memorandum of understanding for the Motor Carrier transition is all established and we're not going through it for the first time, then we will probably merge the two documents into a single MOU because it will be an ongoing MOU, just like the administrative or financial one. But right now because one is sort of just a carryforward that's getting smaller and smaller and the other is much more complicated, we want to make sure that we take the right amount of time. We don't want to waste time but we don't want to just rush to it. Having them separate for this first go-round I feel, and I think Brett concurs, gives us the most flexibility when it comes to negotiating with TxDOT because we can take the time we need to negotiate a good transition of Motor Carrier versus trying to rush to an August 31 deadline and they know they sort of have us over a barrel because facility support, technology support all gets tangled up where it doesn't need to get tangled up in that Motor Carrier MOU.

MR. WALKER: Okay. So I guess where all this 1 is leading to is I'm looking at reading the documents in 2 3 our board packet and the last tab we have in there is for the chairman to sign off on you and Brett to have 4 authority to go create this MOU, and by signing off on 5 6 that authority to create an MOU for this agency with TxDOT, is this board going to have the latitude to look at 7 8 that document prior to it being presented to TxDOT? MS. JOHNSON: Let me ask a question in advance 9 of that. Is the board going to approve the MOU next month 10 between DMV and TxDOT with regard to facilities, the 11

MR. WALKER: I'm sorry. The ongoing MOU? Yes, ma'am.

MS. JOHNSON: Okay. So we'll be blessing that one at the next meeting and then hopefully we'll have an update on the other one.

I think I understand what you're saying is we might be able to use one to leverage the other one but I'm not sure that there is any leverage with the administrative one to get what we want for the other one.

MR. SERNA: Right.

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MR. BRAY: And to clarify, the proposal is for the Oversize/Overweight MOU is to authorize the executive director, with the consent of the chair, to execute the

MOU. 1 MR. WALKER: Which MOU? I'm getting confused. 2. 3 MR. BRAY: I'm speaking only about the Oversize/Overweight transfer, that's all. 4 MR. WALKER: Well, okay. Hold on. We have 5 6 three MOUs -- we still have an MOU based on DMV being created from TxDOT. That has nothing to do with 7 8 Oversize/Overweight. MR. SERNA: No, sir. 9 MR. WALKER: Okay. Now we're creating a new 10 MOU to how the transition is going to take place and the 11 Oversize/Overweight deal. Okay. I'm confused then 12 13 because I'm putting the two of these together as the same functionality, and you're saying that the MOU you're 14 asking for today has nothing to do with taking over 15 Oversize/Overweight. 16

MR. SERNA: It does. There's going to be an advisory committee created.

MR. WALKER: Hold on. Which advisory committee?

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MR. SERNA: An advisory committee created.

MR. VANDERGRIFF: The one you chair

MR. WALKER: Okay. I just wanted to make sure I'm onboard with that, but I didn't know if there was another one. Go ahead.

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MR. SERNA: There will be an advisory committee created that we'll keep briefed. We will certainly want to bring both memorandums of understanding. My briefing on the administrative or financial MOU -- it's the same thing, it's only one document -- the one that we've had for two years was just to give the board a heads-up that staff is working on that document.

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There is an entirely separate agenda item for the Motor Carrier memorandum of understanding. This goes a little bit to the conversation, Mr. Walker, that you and I had, the reason that that resolution is worded the way it is worded is if we can execute that transition sooner than January but it's between board meetings, and if the chairman of the advisory committee but also the board chairman concur that the board is good with it, the advisory committee is good with it, we could move forward faster. If not, the preference of my staff, and my preference is certainly to always bring those types of agreements back to the board, about it's to give us, specifically the department, the flexibility to be able to act with the sort of advice of the chair and the future created advisory committee.

MR. WALKER: Well, here would be my preference, and I'm one out of eight voices on this board today, is that any MOU that is prepared that's going to affect this

agency, before it's signed off on I would like to see a copy of the MOU and have an opportunity to review that before I say I'm okay with this.

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MR. SERNA: And we agree with that.

MR. VANDERGRIFF: And the chair of the advisory committee is going to see the MOU, you're going to see it.

MR. WALKER: Well, but hold on, we're talking about two different things now because I'm talking about any MOU because there's two MOUs. The second MOU which affects the trucking industry and the transfer of the Oversize/Overweight over to DMV, I would like to have this advisory committee that we are forming and putting together who have eight members in the trucking industry who are affected by how that transition is going to take place have the opportunity to also review that MOU and to say yes, what about this, is there something else we want to address on how this needs to be done.

MR. SERNA: And that's what I said would happen.

MR. WALKER: If that's the way it's going then I'm okay.

MR. SERNA: Yes, sir. And that's what I said would happen, we'll be working with that advisory committee so you as a member of the advisory committee and that advisory committee will see it, you as a member of

the board will see that MOU as well. The flexibility that you see reflected in the agenda item is let's say we get to a point in between board meetings where the board has seen drafts of the MOU and they're good to go, the advisory committee is good to go and we can ink that deal and close it, we wouldn't have to wait 30 days or 29 days for another board meeting. That's all that is.

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MR. WALKER: Okay. I'm okay with that.

MR. SERNA: But we are absolutely on board with, one, this board seeing any MOU, not just these two but any MOU, and then very specifically that advisory committee.

MR. WALKER: Okay. I'm good.

MR. SERNA: But this briefing was on the financial MOU just to give you a heads-up that it's coming. So now you've gotten a briefing on the Motor Carrier one too.

MR. VANDERGRIFF: Well, do we have more to come or are you covering it here?

MR. SERNA: I think that's it.

MR. WALKER: And I apologize for drawing this out.

MR. SERNA: No, sir. It makes sense. That's a very important issue to the board and it's a very important issue to the staff and the industry, the Motor

Carrier.

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MR. WALKER: It's a huge concern of a big segment of our business out there that they want to make sure this transition works, and my tail is on the ground because I supported this movement to move this over.

MR. SERNA: And that's why we wanted to make it a separate MOU. We didn't want any of that issue to get buried in any of the other discussions or hung up or anything like that. If TxDOT and the DMV get into a sort of debate on how much they're going to charge us for printing something, we didn't want to be hanging up the Motor Carrier MOU because of that this first year around.

MR. WALKER: Gotcha.

MR. BRAY: And may I speak to that for just a moment? You as board members may be want to be thinking and be prepared at the August board meeting -- and I'm speaking now specifically not about the Oversize/Overweight MOU but the administrative MOU -- because the negotiations will be ongoing with TxDOT and because there will be this give and take about what services we'll receive and fees we'll pay, there is the possibility that at the August board meeting the staff would actually be bringing to you a pretty much done deal but ask you to do really like you did last year which is authorize the executive director, again with the advice

and consent of the chair or something of that nature, only 1 because the existing MOU does expire on August 31 and we 2. 3 need to ink that deal by the first of September. MR. INGRAM: You're saying that if it wasn't 4 exactly complete. 5 6 MR. BRAY: Yes, sir, that's what I'm saying, in 7 short language. Thank you. 8 MR. SERNA: Any other questions on MOUs? MR. WALKER: I'm good. 9 MS. JOHNSON: I was asking the chairman, since 10 we've already discussed item 7.B so extensively, is there 11 anything else that we should go ahead and discuss so we 12 13 can be beyond this issue at this point. MR. SERNA: Brett? 7.B. is the Motor Carrier 14 MOU. 15 MR. BRAY: Only to say that my whole 16 presentation on that was simply going to be that the 17 statute has some odd wording and it says that the board 18 needs to find an MOU as necessary, and so that's what we 19 20 are requesting that you do is find that the MOU is necessary. And the things that are itemized in the MOU 21 are specifically addressed by the statute, and so we 22 23 submit it for your consideration and motion.

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MR. WALKER: Who's making a motion?

MS. JOHNSON: There isn't a motion on the

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Are you asking us to approve this as written, 1 because this takes us out of it, and I'm not going to 2. support that a bit. Then I would move -- well, Mr. 3 Walker, since this is your committee, is there any other 4 information that you need to give us before we would make 5 6 a motion? MR. WALKER: It's not my committee. 7 I'm on an 8 advisory committee that has to do with the transition, it doesn't have to do with the MOU. I would just say that 9 any MOU that affects us I would like to have our people be 10 a part of. 11 MR. VANDERGRIFF: Which the executive director 12 13 as said he definitely would do. MR. WALKER: Yes, that is correct. 14 MR. VANDERGRIFF: The chairman is not going to 15 sign anything that you haven't signed off on. 16 MR. WALKER: So I guess we could entertain a 17 motion to accept this resolution authorizing the creation 18 of this MOU. Is that what we need, a motion to do that? 19 20 MS. JOHNSON: Subject to approval by the advisory committee. 21 MR. WALKER: Yes. 22 MS. JOHNSON: I would second that motion. 23 have a motion to approve the agency executive director --24

MR. WALKER: It's item 7.B.

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1	MS. JOHNSON: with the addition that it
2	would be subject to approval by the advisory committee
3	before it's actually executed.
4	MR. VANDERGRIFF: I'm not sure, can the
5	advisory committee give approval or review?
6	MR. WALKER: Just review, it's just review.
7	And I'll second that motion.
8	MR. VANDERGRIFF: We have a motion and a second
9	on the amendment as presented with the addition to it that
10	it's subject to the review of the advisory committee that
11	is being created which I think we'll probably have to
12	also do here in a second.
13	MR. WALKER: Hold on. I think we're doing this
14	wrong. Let me discuss this. The advisory committee is
15	not going to want to have any input on the MOU between
16	this agency and between TxDOT with respect to the
17	financial, the buildings.
18	MR. SERNA: This is for the Motor Carrier
19	transition.
20	MR. WALKER: This is just the Motor Carrier.
21	Okay. Then absolutely, that's correct.
22	MR. VANDERGRIFF: So you still keep your
23	second?
24	MR. WALKER: Yes.
25	MS. JOHNSON: It's my fault. I wore him out on

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1	the writeup, I'm sorry.
2	(General talking and laughter.)
3	MR. WALKER: I'm okay, yes.
4	MR. VANDERGRIFF: We have a motion and a
5	second. Do we have any questions? I think we do. Mr.
6	Ingram.
7	MR. INGRAM: I'm just trying to get a
8	restatement that the motion is to approve the resolution
9	authorizing the MOU with TxDOT regarding the transfer of
10	Oversize/Overweight Vehicle regulations subject to the
11	advisory review.
12	MR. WALKER: Review of the advisory committee
13	of any MOU created.
14	MR. INGRAM: I just needed to make sure.
15	MR. VANDERGRIFF: Do we have any further
16	questions?
17	(No response.)
18	MR. VANDERGRIFF: I've got the motion for
19	approval, if you'd raise your right hand in support of the
20	motion.
21	(A show of hands.)
22	MR. VANDERGRIFF: And I see no one left that
23	would oppose it, so the motion carries five to zero.
24	Now, Mr. Bray, do we need to have an official
25	motion with respect to an advisory committee?

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MR. BRAY: Yes, sir. 1 MR. VANDERGRIFF: Do we need to specifically 2. 3 appoint those people to it that have been identified, or do we just need the motion for an advisory committee? 4 MR. BRAY: You can do it one of two ways: you 5 6 can either -- when you say identify, I'm not sure who that 7 would be, but if you have a group of people specifically 8 that the board wants to appoint, you can do that, or the board can authorize the chair or another board member to 9 10 appoint. You can do it either way. MR. VANDERGRIFF: Well, I think probably my 11 preference since he's just looking at it now, I think he 12 13 worked on this list -- by he I mean Mr. Walker -- I asked 14 him to do this. MR. BRAY: One way to do it, I suppose, would 15 be by a motion naming the individuals and see if that 16 17 passes. 18 MR. VANDERGRIFF: I cede it to you. MR. WALKER: Well, Chairman, I would like to 19 20 make a motion that we create an advisory committee to oversee the transition of the Oversize/Overweight Division 21 of TxDOT into DMV. 22 23 MS. JOHNSON: I second that motion. MR. VANDERGRIFF: And I'll ask if we have any 2.4

questions from the other side of the table.

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1	MR. BUTLER: Did you mean oversee or did you
2	mean to review?
3	MR. VANDERGRIFF: Well, it is a review.
4	MS. JOHNSON: Oversee transition and review the
5	MOU.
6	MR. VANDERGRIFF: I think staff and the board
7	oversees, the advisory committee provides the review.
8	Review and provide recommendations.
9	MR. WALKER: Review and provide
10	recommendations, there you go.
11	MR. VANDERGRIFF: Do you amend your motion to
12	that?
13	MR. WALKER: Yes.
14	MS. JOHNSON: And I concur.
15	MR. WALKER: I make a motion that we create an
16	advisory committee to review and recommend the transition
17	of the Oversize/Overweight Division of TxDOT into the
18	Department of Motor Vehicles.
19	MS. JOHNSON: And I second that motion.
20	MR. BRAY: That leaves me with two questions.
21	The first would be is this intended to be the statutory
22	Motor Carrier Division committee that's referenced in your
23	enabling statute, or is this is intended to be another
24	advisory committee created by the board?
25	MR. VANDERGRIFF: Do you want this to be the

statutory? I'm happy to take it either way. But as a 1 shorter shelf life, would you want more time to think out 2. 3 how you want a statutory committee put together? MR. WALKER: Well, when the DMV was created 4 there was a statutory requirement that this department 5 6 have and create advisory committees to advise it, and 7 particularly in each segment of the industry to review how Is that not correct? 8 things were being transitioned. MR. VANDERGRIFF: We may create those 9 committees. 10 MR. BRAY: It doesn't say each segment, it's 11 the three core segments: Motor Vehicle, Motor Carrier, 12 13 and Vehicle Titles and Registration. MR. VANDERGRIFF: But that now has been 14 changed. 15 MR. BRAY: Effective September 1. 16 MR. WALKER: So the law is changed. 17 MR. VANDERGRIFF: Because this board wanted it 18 as a "may" versus a "shall." My thought process -- pardon 19 20 me for jumping in -- because we need to get his started, this one is an advisory committee that is specific for 21 this purpose, and then the may becomes effective that we 22 23 look at this and establish a more permanent committee. MR. BRAY: And my second question is that the 2.4

board will create one, what will be the next step?

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MR. VANDERGRIFF: In terms of appointing them? 1 2 MR. BRAY: Yes, sir. 3 MR. VANDERGRIFF: Well, I was, frankly, going to ask Member Walker if he wanted to make a second motion 4 and appoint specific members. 5 6 MR. WALKER: And that's what I was going to do 7 next. MR. VANDERGRIFF: So this first motion is to 8 create. And it is to review and provide recommendations 9 to the executive director and to the board with respect to 10 the transfer of functions. So any further questions? 11 MR. WALKER: We have a motion and a second on 12 13 the table. MR. VANDERGRIFF: Right. And I don't see any 14 further questions. All those in support of the motion 15 please raise your right hand. 16 (A show of hands.) 17 18 MR. VANDERGRIFF: Motion carries unanimously of those present, five-zero; nobody is opposed. 19 20 Now, with that. MR. WALKER: I would like to make a motion that 21 the following people -- and do you want me to read all of 22 23 their names? -- Bob McDowell with W.M. Dewey Trucking, Bryan Fielkow with Jetco Delivery, David Ainsworth with 24 25 Ainsworth Trucking, Buzz Roye with Acme Truck Lines,

Russell Jurk with Bobby Lehman Trucking, Dave Musgraves with E.L. Farmer, Tex Robbins with Lone Star

Transportation, and Les Findeisen with the Texas Motor

Transportation Association, those people serve on this committee to see that transition.

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MR. VANDERGRIFF: And you're missing the chair.

MR. WALKER: And myself, Johnny Walker, chairing that committee.

MS. JOHNSON: And I second that motion.

MR. INGRAM: Just one item, Johnny, I don't obviously know any of those people, so what was the criteria that you used to assemble that group, obviously other than they're in trucking.

MR. WALKER: Besides the fact that they're in trucking, and trucking has lots of different segments, there's household goods carriers, there's flatbed carriers, there's oversize/overweight carriers, there's parcel, UPS and packages, but these particular people, their businesses are totally affected by they buy oversize/overweight permits from the State of Texas on a daily basis, these are probably the largest buyers with the trucking industry in the state.

MR. INGRAM: So size.

MR. WALKER: They have a vested interest in being sure that this deal works good.

MR. INGRAM: Do they also represent all the 1 different segments that you just listed? 2 3 MR. WALKER: None of the other segments use oversize/overweight. UPS doesn't haul over-dimensional 4 loads down the highway. 5 6 MR. BUTLER: So these are all 7 oversize/overweight. 8 MR. WALKER: These carriers, they're all oilfield -- probably 90 percent of the people who use 9 these permits are working for the oil and gas industry in 10 the State of Texas. 11 MR. VANDERGRIFF: Which is another reason why 12 13 you wouldn't want to do the permanent committee because that would need to be a broader group of people. 14 MR. WALKER: That's a good point. 15 MR. INGRAM: 16 Okay. MR. VANDERGRIFF: All right. We do have a 17 motion and a second. Any further questions? Don't see 18 any. Please raise your right hand in support of the 19 motion. 20 (A show of hands.) 21 MR. VANDERGRIFF: The motion carries 22 23 unanimously, five-zero. Now, do we need to do anything with respect to 2.4 25 the first MOU?

MR. SERNA: No, sir. That was just me briefing the board that staff is working on that MOU.

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And I have one more item to talk to the board about. The staff is working on and will execute its interagency contract between itself and the Texas Department of Criminal Justice for the production of plates. This is one of those contracts that when the board passed the resolution concerning contract approval procedures, this is one of those contracts that is required by statute, so I need to make sure the board knows that I'm executing this but it's not a contract that comes back to the board for individual approval.

MR. WALKER: That was excluded.

MR. SERNA: Yes, sir. So this is an informational item that I'll be executing this contract either this month or next month, and it's for approximately \$13.6 million for the production of license plates with TDCJ, and it's not going to exceed \$13.6 million.

MR. WALKER: We don't need approval or a motion on this.

MR. SERNA: No, sir. This is just to let you know that I'm going to sign off on it.

MR. WALKER: While we're on this issue, though, there were some concerns that the department had with our

communications within the prison because the wires have been eaten up by the mice and the rodents there, and so we have a person there that had a cell phone; we have two people there, but they kind of communicate with a cell and the blocked signals are coming out of the prison because of Senator Whitmire. So have we resolved our communications issue?

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MR. SERNA: I know we're working to resolve but they have not been resolved yet.

MR. WALKER: We're still working on it, Dawn?
MS. HEIKKILA: Yes.

MR. WALKER: And so is there any resolve to this in the future? And I know you and I are going in a couple of weeks to look at this. Right?

MS. HEIKKILA: Yes, after August 20.

For the record, my name is Dawn Heikkila, chief operating officer for the Texas Department of Motor Vehicles.

We have not resolved the telecommunications issues at the Huntsville office within the site of Wynne Unit. We continue to work on that in conjunction with TDCJ and our TxDOT telecom which we're still continuing to receive telecommunications support form the Texas Department of Transportation. So we're still working on the issue. We don't have a resolution yet but we hope to

have one soon.

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MS. JOHNSON: I had a question with regard to I think it was last year but it could have been the year before where if they go into lockdown I think that prisoners had cell phones and they had shut the prison down, but there were multiple times last year where we couldn't get license plates, and so have off-site facilities to store plates been arranged, or can that be negotiated so that we don't get into a situation where we can't provide plates to our customers?

MS. HEIKKILA: I'm not aware that that's specifically been negotiated but it's certainly something we can explore. We are, as stated, still working on the interagency contract with TDCJ, they have it down there for review. It's pretty standard from year to year, but that's definitely something that we could explore.

MS. JOHNSON: Since it has been an issue. I think that there were two instances within a one-year period, and I can't tell you exactly when those are without going back through email, but it was two instance through a one-year period that we couldn't get plates, and our dealers were upset and we were upset and our customers were upset. So I'm not sure how we can work that through the MOU, but if it's possible to address it, that would be wonderful.

MR. SERNA: Yes, ma'am.

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MS. HEIKKILA: We'll certainly look at that.

MR. SERNA: In addition, and I'll check to make sure that it's still in place, in a situation where for some reason there was some really bad riot where they tore up all the equipment in the prison, there is a fail-over facility that's in another state, another prison that we used to have. We'll make sure that that's still in place. But these shorter term sort of lockdowns we'll explore, because I do recall that in some tax assessor-collectors' offices their inventory got down to zero or pretty close to zero where they couldn't hand out bulk plates, and in others it got close enough that it concerned them, and we'll look at alternatives for storage.

MS. JOHNSON: Thank you.

MR. WALKER: Ed, on the contract that we have with the Texas Department of Corrections on license plates, is it just a flat rate or is it based on a piecemeal basis?

MR. SERNA: We pay them so much a plate.

They're entitled by statute to I think it's a 10 percent profit, but we pay them so much a plate for production, so if we get to a situation where we produce less plates we would pay them less, if we get to a situation where we have to produce more plates for some reason, then we would

adjust our budget and pay them more, but it's on a unit basis. I want to say it's 50 cents or 80 cents, some insignificant amount.

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MS. HEIKKILA: It depends on the type of plate that they're printing, but the plate costs are very small, and the contract is based on cost recovery, so the amount that we're paying per plate has to do with how much their raw materials are and that kind of thing. But basically, it's anywhere from like \$1.60 to \$1.88 depending on how many colors are on the plate and whether or not it's a motorcycle plate or a car plate or a motor vehicle plate. And they go in and they recalculate the composite rate each year, so like from '11 to '12 the contract costs are going up about 4 percent and that's a direct result of increases in the cost of the materials, the cost of aluminum and the cost of the thermal sheeting.

MR. WALKER: They're guaranteed a 10 percent profit on whatever they do?

MR. SERNA: In statute, from us.

MR. WALKER: I wish I could get that guarantee in the real world.

MR. INGRAM: So my question was that \$13.6- is kind of an estimate in a way because certainly you don't know the actual number yet.

MR. SERNA: Yes, sir. It's based on historical

number of orders of plates but that could certainly fluctuate. If for some reason we changed -- just as an example, not that we're doing it -- but if we changed the period of time between when you had to replace your plates because of reflectivity or if we saw a resurgence in the economy and more people were buying vehicles and we had to churn more plates --

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MR. INGRAM: That would be nice.

MR. SERNA: -- that would be nice, it would go up. Or the other way around, if we get our cost down, if we could do something that would increase the life of the existing plates that are already issued. But yes, sir, it's an estimate.

MR. INGRAM: So would it be fair to say then that the last year's estimate was around \$12 million, or what was last year's number?

MS. HEIKKILA: Actually the amount of passenger plates from last year to this year didn't change.

MR. INGRAM: I was talking about the actual dollar amount.

MS. HEIKKILA: Yes, \$12 million.

MR. WALKER: \$12 million for 22 million cars -- oh, I'm sorry, that's just the plates.

MR. SERNA: That's just the plate cost.

MR. WALKER: And token trailers won't have any

effect on that. The permanent token tags we're going to for trucks won't affect that because we were just putting stickers on those. Right?

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MR. SERNA: Right. There would naturally be a little bit of an effect because we're producing less of those but not a significant enough effect to move that number at all.

The last item that I have is the monthly financial statements, have Linda brief us on that, as well as this is just a heads-up, this is not an approval of but it's a heads-up on the fiscal year 2012 operating budget. We want to make sure that the board has adequate time. We'll be coming back again next month for an actual presentation and approval, but we wanted to start getting that information to the board as soon as possible concerning the 2012.

So we'll do our fiscal update and our operating budget presentation. Linda.

MS. FLORES: Good afternoon. For the record, my name is Linda Flores. I'm the chief financial officer for the agency.

Your May 31, 2011 packet identifies

approximately \$7.4 million in expenditures in the month of

May compared to \$10.1 million for the same month last

year. The difference can be attributed to the ABTPA grant

expenditures which were less this year as compared to last year, but we do expect them to roll out the remainder of their grants by November 30, 2011.

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Revenue collection, total approximately \$131 million for both Fund 6 and general revenue. Registration had another record high of \$128 million. This is similar to other months in the past. We tend to see a very high spike in the months of March, April and May for registration fees.

MR. VANDERGRIFF: Why is that? I know historically they all used to re-register in one month.

MS. FLORES: Right, and apparently we're still seeing some of that effect where all the registrations occurred in the month of March.

MS. JOHNSON: That's fleet registrations.

MR. INGRAM: You also have a much higher volume of used cars during January, February, March.

MS. FLORES: Through the end of May the agency, as I had mentioned, had spent \$7.4 million. At this point we still have available 66 percent of our budget. I'll get into a little bit more of that when I discuss the FY 2012 operating budget. I've identified other expenditures in detail which total \$3.8 million, and on page 11 we've included the footnotes to all of the detailed expenditures by division.

And what I'd like to do, really, is take more time to discuss the FY 2012 preliminary operating budget and status for FY11.

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So with that, I just kind of want to start out by touching on the financial impact to the agency's operating budget. There were three key components in the 60-plus page document that I forwarded to the board. I'll go ahead and talk as we get out technical piece together.

We went through a very tough legislative session that for this particular agency was very effective for our appropriations. While a lot of other state agencies were experiencing reductions, we managed to stay close to our budget request.

The budget overview for the agency is we received approximately \$162 million in our base budget. We managed to hold onto our automation system project money, we didn't have any FTEs that were cut from the agency, and those initial FTEs that were cut were actually restored during the legislative process. Not only that, we also have this transition, a transfer of a large program, 116 FTEs and approximately \$7 million associated with the Oversize/Overweight.

MR. SERNA: I'm sorry, Linda. So the transfer of the functions and the staff for the Motor Carrier Oversize/Overweight function is coming over funded.

MS. FLORES: Correct.

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MR. SERNA: It's coming over funded and it's coming over equipped.

MS. FLORES: Correct.

The MOU, as you have discussed, is going to lay out all the detail about equipment, computers, and that portion of the transfer, but I've included as a placeholder that \$7 million and 116 FTEs.

The first piece that I'm going to refer to is the lapse for how do we look in FY11. Again let me set the stage for you. When we approved the operating budget last September, we had approximately \$205 million built into our budget. Almost \$50 million were adjustments, \$30 million was a carryforward from the first year of the automation system project, another \$25 million were unspent balances that were transferred into the DMV to stand up the agency. So we started in FY11 with an overinflated budget.

We are projecting to lapse \$96.7 million of that. That lapse would have been even higher if we had not already reduced that by \$50 million. The automation system project's budget for the two years was approximately \$61 million. The agency took a step back during the LAR budget process and identified that that \$61 million was over-funded to begin with. We went to the

Legislative Budget Board, we talked it out, we took a step back to reevaluate that project and determined that a more reasonable budget was approximately \$45 million. So as part of the process in our discussions and our LAR development, we took out \$50 million right off the bat.

That \$96- would have been a lot higher if we had not done that. So we're expecting to lapse \$96 million.

Approximately 49 percent of that is tied to that \$45 million.

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MR. WALKER: But that's in last year's budget. Right?

MS. FLORES: It's '11, yes, sir.

MR. WALKER: Not going forward.

MS. FLORES: Not going forward, and what I want to make sure that I do focus on is because we ere up front with the legislature, we told them what we were doing with that 61- or not doing with the 61-, they've reappropriated that \$45 million for this next biennium. So even though it says it's a lapse, the legislature can always re-appropriate lapses. All a lapse means is it wasn't spent at the end of the year.

MS. JOHNSON: I'm going to ask you a question that came up in our write-up here this morning. Johnny, can't as if he doesn't have a microphone so it's mine. Where does lapse goes?

1	MS. FLORES: It goes into the fund balance.
2	MS. JOHNSON: In the state's fund balance?
3	MS. FLORES: In the state's fund balance.
4	MS. JOHNSON: General revenue?
5	MS. FLORES: This would be Fund 6.
6	MR. SERNA: It goes back where it came from, so
7	this is Fund 6.
8	MS. JOHNSON: And who has the key to that bank?
9	MS. FLORES: For Fund 6 the keeper of that is
10	TxDOT.
11	MS. JOHNSON: But they can't spend any
12	unappropriated lapse without permission, right, or if they
13	had a budget deficit, that would make it up for them? I
14	was just wondering who's overseeing all this money that's
15	going back.
16	MS. FLORES: Normally no state agency is
17	allowed to spend unappropriated balances. The legislature
18	has to appropriate that money.
19	MS. JOHNSON: Okay. So it just goes into just
20	a cyber bank until it then gets appropriated again.
21	MS. FLORES: Correct, until agencies come back.
22	MS. JOHNSON: We were curious of where it went
23	to.
24	MR. SERNA: The legislature or the Legislative
25	Budget Board controls that bank. Agencies are

appropriated the funds and they can spend what they're appropriated. They can go to the legislature and say hey, I need more money, but it's the legislature and the Legislative Budget Board that controls that bank.

MS. JOHNSON: Thank you.

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MS. FLORES: The next item is that unspent balances that were used to create the agency, there was approximately \$24.7 million of carryforward and then we had another \$2-1/2 million in contingency. That item is also not being spent, but what the Legislative Budget Board did during the process, I as up front with the Legislative Budget Board, I told them that I had this contingency, instead of actually cutting it they redirected it and used it to fund our data center consolidation funding and that was \$8-1/2 million, and the rest they did cut. So that was part of the legislative process, the cuts give and take.

MR. VANDERGRIFF: Again, I will note this when we talk about legislative issues, but what you did is also legislative work and it says a lot for the agency that they gave us -- we came to them honestly with a funding need and they gave us that funding in a time where a lot of people weren't getting that, most agencies were not. The glass is definitely three-quarters full instead of empty here.

MS. FLORES: Correct.

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We also identified some efficiencies in administration. Dawn came to you and just talked to you about this \$13 million contract for license plates, but we actually did realize or we were over-budgeted in the manufacturing of license plates, we had an extra \$8.3 million that are not needed, and so I've moved that money to agency-wide in FY12.

MR. WALKER: How did that happen?

MS. FLORES: I believe historically the agency had additional funds for the manufacture of license plates, and perhaps at one point they started realizing some savings, however, their budget was never reduced.

MR. SERNA: Let me be a little bit more direct, and I don't mean this derogatory towards my sister agency TxDOT, but under TxDOT, I believe that division, Vehicle Titles and Registration Division used license plate production to hold part of its contingency or its pad, where our own agency now, we don't need to have divisions having pads. And Randy wasn't trying to do that at all, let me make that very clear. When we looked at the historical patterns and we saw how much are we really going to spend, that amount of money was there and we simply moved it out.

So it's something that had been happening

probably for years at the Texas Department of
Transportation, we really didn't adjust it that first year
because it was a partial year, we were still getting sort
of our land legs, but now that we've got our appropriation
and everything else we looked at it very tightly and have
tightened that number down.

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MR. WALKER: That's not a fair budget based on what was the real number you spent last year and what you anticipate going forward.

MR. SERNA: We agree, and that's exactly what we're doing.

MR. WALKER: Okay, let's see if we can punch some number here. That's not what real budget is about.

MR. SERNA: I agree with you, and that's exactly what we're doing now, that how we're building our budget. Now that we have our own historical information, we've got a year and ten month that we can base information on, that's what we're working our budget on, not just the historical information that we had in the past. I agree with you 100 percent.

MS. JOHNSON: And you're probably going to cover this but it's along that same line, so when you started the budget process did you look at what you actually did efficiently in this last year and start with that number which was much smaller than the number you

were working off the year before, so you did start with a smaller number and decide if you needed to go up or down from those.

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MR. SERNA: We actually started with a modified zero base, so we assumed everybody got nothing and then you built up to what you needed and then you were questioned on what you needed.

MS. FLORES: And I'll also tell my methodology as we get into '12.

MR. SERNA: But yes, ma'am, kind of what you're talking about except instead of with a preliminary number, since 2012 will be our first budget with our own appropriation, we started with what was equivalent to a zero, so we basically go and say tell us what you need and why you need it, don't assume you're going to get what you got before just because you've had it before.

MS. JOHNSON: Okay, good. Thank you.

MS. FLORES: The last item in that potential lapse -- and again, let me reiterate it's a potential lapse, we still have a few more months in the year to go -- has to do with this capital equipment, and as Dawn mentioned, there's still some needs out there, and based on our historical spending patterns, we estimated that they might leave about \$2 million on the table, but she still has some needs and she's going to be addressing that

with these available funds so that we don't leave any available funds on the table that are really truly needed and can be used, and we have the wherewithal this year.

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So let me just briefly touch on the methodology for creating the FY12 operating budget. We started with our appropriations, and it is really the implementation of our approved appropriation for year one of the biennium. That's almost like a ceiling not to exceed. As I mentioned, we have \$162.6 million. We also have a rider that authorizes us to pay the My Plates vendor, and as Dawn mentioned and as Mr. Walker also mentioned, they're on target. We're estimating that we'll be paying them \$5 million in FY12. That's their portion of the revenue that they bring in.

MR. SERNA: I'm sorry, Linda, to do this to you, I keep interrupting you. I just want to make sure everybody on the board understands we're not paying them out of our funds, they collect all the money and we give them back their portion of it.

MS. FLORES: We collect the money.

MR. SERNA: Yes. When you buy a specialty plate we collect it and then we give My Plates their share of it. So the My Plates contract, I just want to make sure everybody understands, does not cost this agency anything.

MS. FLORES: If they bring in less, they get paid less; if they bring in more, they get paid more.

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MR. INGRAM: Being my first time, a rider meaning that that's going to be in excess of your base 162-.

MS. FLORES: Correct, and that's what I'm getting to at the very end. So we start with that \$162.6-, we add in that. A rider is just another directive to the agency, it could be money, it could be a report. We also received that \$7 million for the transfer of the Oversize/Overweight, and we also have two reductions that apply to all state agencies, and they're buried in House Bill 1 in Article 9, Contingency Appropriations. The legislature gives with one hand and then they take away with the next. They gave us \$4.2 million for that data center cost for year one, they're taking \$521,000 right off the top. So we're left with a balance of about \$3.6-for the data center consolidation.

The other has to do with a payroll contribution from group health. I've set those two items aside in agency-wide in order to make sure that we have the funds when the comptroller comes calling and says it's time to cut your appropriations.

MR. WALKER: I have a question before we go past this. I'm going to come up to the mike; aren't we

supposed to be talking into the mike? I can't see over that.

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MR. VANDERGRIFF: I know. I'm fine with it.

MR. WALKER: Let's talk about this

Oversize/Overweight appropriation of \$7 million in

transfer here. There's some technology that we're trying

to get implemented over there at Oversize/Overweight, the

TxPROS system that has not been activated yet, they're

trying to roll that out. Do we know that we have enough

money in this \$7 million to make sure that that system is

up and rolling in the next six months?

MR. SERNA: That's part of what we'll be negotiating to make sure that all the monies we get not only supports the staff and the current equipment but supports TxPROS and the future needs of maintaining and growing that system. So do we know that we have it all there right now in the \$7 million? I'm not confident that that covers everything we need, but that's why we're going to negotiate that MOU, just like we did the first MOU to identify the needs and pull those monies out of the TxDOT budget and transfer them into the DMV budget.

MR. WALKER: Well, who created this \$7 million here, because I sure didn't come up with it. I don't have any idea how to come up with that number, but I want to make darn sure that the crutch behind why this system is

coming over there is the industry wants to make dang sure that this TxPROS system gets up and running and that we have the money available to get that system up and running. It was supposed to have been running six months to a year ago and it is still not up, and so it needs to have enough money that we can get the this thing through, and my question is does the \$7 million.

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MS. FLORES: The only comment I would have is I know in talking to the division director as of yesterday that her capital authority ends August 31 for this application. She has to roll it out by August 31.

MR. WALKER: They were supposed to have rolled it out, Les, how long ago? A long time ago, Linda. A year ago this system was supposed to have been rolled out. It is still not rolled out and it still has had failure problems, and the industry needs to know that this system has the ability, that we have the ability to go in and get this system up and running so that we can expedite the process of getting these permits to truckers out there that are trying to move loads on the state's highways.

MR. SERNA: Yes, sir. And again, the \$7 million is simply what's initially identified as that division's budget, it is not what I anticipate we will negotiate with TxDOT to need to come over to cover the implementation and the support.

MR. WALKER: What's the relevance of this \$7 million here then?

MR. VANDERGRIFF: That's so you can pay the people to take care of the business.

MS. FLORES: For staff.

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MR. WALKER: But you're saying that we may end up with more than \$7 million.

MR. SERNA: Yes, sir. We will be negotiating for all the funds that we need to not only support the staff and the current equipment and the current systems but the new system and the continued implementation and advancement of that system. I don't want to bring a good system onboard, TxPROS, and then it just suddenly go stagnant, we don't do anything with it.

MR. WALKER: That's not going to happen.

MR. SERNA: Yes, sir, that's what I'm saying. So that's why -- I'm not trying to go back to that conversation, but that's the other reason to split that MOU out so we can focus all of our attention just like we did the first time. You may remember, or maybe not, where we were really trying to identify all the funds, not just the funds that were stuck in a division's budget but all the funds that were associated with the operation of the divisions, and we'll do the exact same thing here.

You had asked the question how do we know. We

don't know that that covers that but that's what we do through the negotiations and the discovery and everything else.

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MR. VANDERGRIFF: I'm sure that the current director, Carol Davis, but do we have some of the people in the room here today understanding of how TxDOT is funding that today, do they have specific budget support for it? I know where they get the money from based on the fee increase.

MS. FLORES: I can tell you from our side. As part of the transition team we've been compiling a list of documentation that we'd like to see. We had a page list regarding budget, method of financing, staff, position control, so we had a pretty large list because I have not seen their detail.

MR. BRAY: It's really pretty simple. The \$7 million is that division's budget, and the real question is and the material she's looking at and the material that Aline will be negotiating from is where else in TxDOT is there money that might be supporting TxPROS, and wherever it is we'll find it and negotiate it.

MS. JOHNSON: And I know that the MOU will negotiate the housing of these individuals, but I'm also concerned about equipment, the assets that come with those people, the desks that they're sitting at, the telephones

that they each have, but also their benefit costs I imagine are in that \$7 million but are there office supplies. I mean, those basic infrastructure costs that they're going to have to have, that's got to be buried somewhere within the whole. Hopefully it's identified and encapsulated and we'll find it.

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MR. SERNA: And that's actually what Brett was also alluding to is Linda said that they compiled and several other divisions that are working on our transition team have compiled that we need to know these things, and some of it is what other divisions in TxDOT are carrying budget and expense for this one division that's coming over, not just what's in that division, so that we can make sure that we get all of those resources to support that operation.

So yes, ma'am, we're very keen on that because you look at these numbers, those are big numbers but we're still running pretty tight considering everything else we have to do, so it's not like we have a lot of fluff that we can just assume a lot of things.

MS. JOHNSON: And Mr. Walker, since you're sitting out there, I'm going to ask you are you satisfied with these answers, are you ready to move forward?

MR. WALKER: I've got one more question.

MS. JOHNSON: Okay. I rarely have an

opportunity to question you so I just had to take advantage of it.

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MR. VANDERGRIFF: That's what brought a smile to my face, by the way. I was thinking of what I was going to ask you with respect to the financial statement here since you had joined the finance team for purposes of this presentation.

(General talking and laughter.)

MR. WALKER: Let's just suppose now that TxDOT has not had sufficient funds and the reason that TxPROS is not up and running is because they haven't been funding it correctly, do we have the ability somewhere within our budget to make sure there's enough money, say if we're a million, two million short, to go and get this system up and running?

MR. SERNA: If that's the case, then we will reexamine our entire budget, including all the allocations we have and try to identify any internal funds, but before we do that we're going to seek to get, through negotiations, those funds from TxDOT.

MR. WALKER: But maybe the system is not on and it's not working is because they have been underfunded and not putting the right amount of money into getting this project up and going.

MR. SERNA: We'll have to reexamine our budget,

just like we did with --

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MR. WALKER: How much money are we giving the tax assessor-collectors over there? If we could just get a little of that money that they've got over there.

MS. JOHNSON: Oh, you're not touching my money. We worked hard for that.

(General laughter.)

MR. SERNA: Just like we did with the Vision 21 project when we examined it and we funded it appropriately, we'll do the same thing with TxPROS.

MR. VANDERGRIFF: I would say this on the funding side, and I'm sure that you will look at this, and my memory could be slightly hazy, but from a few years ago when we participated, you and I, as well as a work group, there was a significant funding flow that was done based upon -- there was different interpretations of what that funding flow was for, was it to repair road damage, but I believe the industry expectation was a significant portion of that fee increase that was generated in the 2007 legislative session, or came out of that session, was to go to this project. And I would certainly want our staff to trace that funding as it exists today, vis-a-vis, how much is being used to support this project. there's not a direct connection because it goes into Fund 6.

MR. WALKER: You're exactly right. The industry supported a fee increase in order to fund this program, and I'm not so sure it was all used.

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MR. VANDERGRIFF: Well, this is significant dollars, if I remember correctly, and I know there's one other member of that team, Mr. Findeisen is here, that was on that study team, it was a lot of money, maybe to the tune of roughly \$30 million annually, upwards. So it's a significant flow of money. A piece of that ought to be available to make sure this project is adequately funded.

The more critical question is probably to make sure that the program actually works and we know what it takes financially to make sure it works.

MR. WALKER: We know the program works because one of the people on the team, the advisory team, there's two of them using it. Two of them are the guinea pigs and they said the system works great, they just won't roll it out for the rest of the industry.

MR. VANDERGRIFF: Okay.

MS. FLORES: Well, getting back to our appropriation, at the bottom of that page you'll see that we are starting FY12 with an adjusted budget, if you will, including riders and contingency appropriations, of \$173.8 million.

I need to make reference that we did transfer

or will transfer the TexasSure Program, verification program to the Department of Insurance effective September 1, and the Organ Donor Program is also moving to Department of Public Safety.

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The next information has to do with our revenue projections. For FY12 we're estimating approximately \$1.25 billion in both general revenue and State Highway Fund. Of course, State Highway Fund is the major portion of that number.

I need to make sure that I mention that in that this is the state's revenue estimate for FY12. The comptroller is the administrator of the revenue estimate, she is the keeper, she's the spokesperson for the state, so now that we have a financial team -- and I'm sorry, I need to introduce Michael Endlich, who is manning the computer for me, he is my revenue forecaster -- we have taken on that responsibility, we actually have three staff people onboard now. We have made contact with the comptroller's office to start building that relationship that we need to have with their forecasters so that we understand their numbers and they can also get input and feedback when they're developing their revenue estimate as to what we see from our side of the house.

MR. VANDERGRIFF: This is the comptroller and TxDOT on this?

MS. FLORES: Correct.

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MS. JOHNSON: Have you looked at these numbers?

Because these are all up and I have to say the numbers

that I've seen I think were up over the last year but they

were way low the last year, so do you think that these are

fair because I'm a little concerned that these are

reasonable.

MS. FLORES: And I guess we have to say we're also concerned. The comptroller was estimating a growth of approximately 3 percent for '12 based on current trends. We believe, the agency staff believes that it's going to be closer to what we had this year in '11. So we believe she's being a little aggressive, but if the economy turns around like she believes it will, then we might meet the target.

MS. JOHNSON: They said they projected 3 percent; are you thinking like 1-1/2 or 2?

MS. FLORES: Two.

MS. JOHNSON: Thank you.

MR. VANDERGRIFF: I would like to see something that shows what we think. We're unofficially estimating, and I understand that, but I think we should be prepared with that and show the board that on a regular basis, just to make sure.

MS. FLORES: Absolutely. And what we'll start

doing, now that I'm reporting on revenues collected, we'll have like what we project next to it so that you can see how are we doing: here's what we thought we would do this month, this is what we're doing. So we'll start creating some financial information.

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MR. WALKER: That would be on a plate right after the My Plates projection.

MS. FLORES: Yes, sir. Will do.

The next item, again, it's a repeat of our legislation, and I've kind of given you a comparison from '11 to '12 and that is the base appropriation. I think if you turn to the next page, you'll see the bottom line and that should look familiar to you. Our operating budget at the end of '11 is \$205 million compared to \$172-, and the difference there is approximately \$30 million which I know looks like a cut, and again, it's because of those items that occurred during the legislative process where we were re-appropriated monies that we thought might lapse but didn't. So that's kind of where we're at on that.

MS. JOHNSON: And it does look like a cut unless you go back to page 7 which is showing that \$96 million lapse.

MS. FLORES: Right, correct.

MS. JOHNSON: Thank you.

MR. WALKER: I thought the Organ Donor Program

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used to be like only \$15,000. 1 MS. FLORES: That was the revenue that we 2. 3 collected. The actual appropriation amount was \$451,200. MR. WALKER: We appropriated \$451- but only 4 collected \$15-? 5 6 MS. FLORES: Yes, sir. 7 MR. SERNA: The legislature appropriated. 8 MR. WALKER: Because I remember when we got rid of it, it was just such a small a mount of money it wasn't 9 even worth messing with it. 10 MS. FLORES: Yes, sir. 11 This kind of gives you a pictorial review of 12 13 what I would call the core budget versus indirect. divisions make up 92 percent of that appropriation 14 compared to 8 percent for the agency's indirect 15 strategies. That includes administration, administrative 16 services, financial, executive, board. 17 18 And this is a chart by strategy, by appropriated strategy. The lion's share is, of course, 19 20 the registration, titling and plate strategy, followed by ABTPA. 21 Our method of finance, pretty much all State 22 23 Highway Fund, 91 percent, followed by 9 percent and that

MR. SERNA: Let me ask you one thing real

is all now included in ABTPA.

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2	Vehicle, et cetera, these are not the divisions' budgets.
3	MS. FLORES: Strategies.
4	MR. SERNA: These are, just to clarify to
5	everybody, Randy's division's budget is not \$126 million,
6	that's the strategy.
7	MS. FLORES: That's appropriated strategy, the
8	LAR's appropriated strategy. We're going to get into
9	organizational budget later.
10	MR. SERNA: Because several divisions are
11	funded out of that appropriation strategy.
12	MS. FLORES: Yes. Sorry.
13	MR. VANDERGRIFF: That's all right. It's been
14	requested that we take a short break. We've been at it
15	for about two hours. Do you mind?
16	MS. FLORES: Absolutely not.
17	MR. VANDERGRIFF: Normally I would let you
18	finish but I think you're going to be a bit.
19	MS. FLORES: I think so.
20	MR. VANDERGRIFF: So let's take a short ten-
21	minute break. It is 2:55, we'll come back at five after
22	3:00.
23	(Whereupon, a brief recess was taken.)
24	MR. VANDERGRIFF: Back on the record.
25	MS. FLORES: My name is Linda Flores. I'm the

quick. Having the Vehicle Titles and Registration, Motor

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chief financial officer for the agency.

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And we left off at my favorite chart here of this whole presentation, and that is the revenue that we collect versus the money that we spend. So as you can see, the Pac- Man is pretty large, and I guess I'm dating myself, I guess they don't do Pac-Man anymore.

MR. VANDERGRIFF: I understand.
(General laughter.)

MS. FLORES: Eighty-seven percent is contributed to Fund 6 and the agency as a whole uses 13 percent of the revenue that we collect.

You mentioned the agency's operating budget by organizational unit or division, this page reflects that. And what I wanted to mention to you was the methodology that we used to create the FY12 operating budget. In light of the appropriation, in light of everything that was going on through the legislative process, we started the FY12 operating budget by taking our spending patterns through May 2011. We identified all of the positions at the agency, 647 FTEs, what we call full-time equivalents, and we made sure that we budgeted for all those salaries.

MR. WALKER: And you missed the Oversize/Overweight guys.

MS. FLORES: Well, we actually had an estimate, what is the average employee at DMV paid, what is our

average salary, about \$45,000, 116 FTEs. Without seeing their records I had to come up with something, so we did our best estimate on what 116 salaries would equate to.

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So you'll see that we've identified what we believe the divisions will need in FY12, but what we did is we estimated what they would spend through '11 and then we met with the divisions themselves, all of the divisions to hear what their needs would be in '12 if we had not covered their allocations fully.

So you will see an agency-wide line item there, and it is the place-holder for all of those unspoken requests. If their spending pattern was such that it was more than what they had in FY11 and they couldn't provide any justification for hanging onto that money, I pulled it to agency-wide. And there's two pieces in agency-wide. One is a reserve for the Motor Carrier piece that includes that \$7 million, and then the difference is what we've freed up from the divisions, and that's approximately \$10 million.

MS. JOHNSON: Before you go off of this page, this is where most of the questions that I had submitted, or at least one of them came from, if you go to page 7 and compare it to page 17 they're both by division, and so when I look at what we're actually spending, projected expenditures through the end of this year -- and I

understand the \$7 million and having lumped all of those into the agency-wide because you went up from \$40,000 to \$18 million so that's where you put that pot -- but we're really going up when it comes down to it, we're really increasing our expenditures, it appears as though we're cutting them but when you look at what we expect to spend.

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MS. FLORES: And a large piece of that, over almost 50 percent of that still has to do with the automation system project. We have \$45 million in FY12 for the automation system project. So we didn't spend anything, or very minimal spending for that system project, they've re-appropriated that full \$45 million in '12. And it's front loaded in '12; really we have two years to spend that \$45 million.

MS. JOHNSON: So if we have a lot of extra then it might be that next year we'll see that.

And then let me ask you -- and this might not be the time to ask it but I know you're getting ready to switch to another totally separate page -- is this the appropriate place to ask, or is it someplace else, about if you look at our key measures --

MS. FLORES: And I was going to come to that.

MS. JOHNSON: Then I'll wait.

MR. INGRAM: Then I have two questions. One is you mentioned about one part of the increase, but in the

2012 budget you also have included, I would assume, the salaries for unfilled positions that you currently have had during the last budget.

MS. FLORES: Absolutely.

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MR. INGRAM: So that would be a fairly significant portion as well.

MS. FLORES: Absolutely. I do not believe in budgeting for attrition like some other entities might do, and it's not as conservative as I like to be. I believe in budgeting for a position at whatever level they're going to need for that year. Vacancies occur, that's kind of the norm, and with those savings that are accrued, we'll be sweeping those savings and moving them into agency-wide for unforeseen events that might occur.

MR. INGRAM: Okay. And then my secondary question, there is under the Enforcement Division a fairly large decrease, in your notes there's a large decrease.

I'm a little confused by the notes versus.

MS. FLORES: I'm sorry. It should have reflected they were over-funded \$600,000, and when we talked to the division in May they were up front as well and said this \$600,000 can be moved to agency-wide, so that's what we did.

MR. INGRAM: Okay. That's all. Thank you.

MR. WALKER: I have a question. Board expenses

at \$30,000 a month, does that cover this internal auditor's salary? Is it really fair to put that down as a board expense?

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MS. FLORES: Well, we did move out the board.

The board has three staff people that report to the board.

It's Julie, the director for Internal Audit, and then two staff auditors. And I was also going to mention that director of Internal Audit is a director for classification and I believe it's capped at about \$104,000 for your information. Because we were pulling out a budget for the board, I felt it was appropriate to pull out the staff that report to the board as well.

MR. WALKER: But for somebody looking from the outside in saying: Look how much this board is costing the State of Texas over here. Well, I come up here basically for free, and so does everybody else, and to look up here and say well, this board is costing the state \$30,000, these salaries would exist without this board, would they not?

MS. FLORES: Yes.

MR. WALKER: Is that a good reflection?

MR. SERNA: No.

MR. WALKER: I think that's a debatable.

MS. FLORES: And I'm open to if you would like to make a change, if you would like for me to break out

1	Internal Audit, I'm happy to do that.
2	MR. WALKER: I don't know. I mean, when I look
3	at that I think I don't get a check that big.
4	MS. FLORES: I could also maybe put a little
5	parentheses: Includes Internal Audit staff.
6	MS. JOHNSON: Board staffing and support.
7	MR. WALKER: What do you think, Victor? Do you
8	think our financial reports should show that the board is
9	actually costing this agency?
10	MR. VANDERGRIFF: Well, it's an argument we
11	created those positions and want them funded. I think you
12	can do perhaps even just a memo item or something that
13	identifies those as salaried positions.
14	MR. WALKER: What do you think, Cliff? You're
15	a big finance guy.
16	MR. BUTLER: I think if you'd rename it Board
17	Staffing or Board and Staffing, because that's what it is.
18	MR. WALKER: Board and Support, maybe.
19	MS. JOHNSON: Staffing and Support.
20	MR. BUTLER: Do the expenses of the board, like
21	travel expense go in there too?
22	MS. FLORES: Yes, sir.
23	MR. VANDERGRIFF: All of that is a minor
24	portion of this.
25	MR. WALKER: That's little bitty. Look how

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much money they send you and I. We're not that big of a cost to the state.

(General talking and laughter.)

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MR. SERNA: The one thing we also wanted to make sure is that the staff there don't feel like their budget is controlled by somebody else, administrative services or exec or somebody, the whole idea that the board's staff would be independent of the staff. But we understand what you're saying, and both Mr. Butler and Ms. Johnson have indicated some language that we can use that would clarify what that is, that it's not pure board member expense because that is very low, the travel is very low. But we did want to segregate them so there's no sense of somebody else is controlling my budget so I have to go ask Ed if I can give my auditors a salary increase or something like that.

MR. BUTLER: Also let the record show that I don't get anything either.

(General laughter.)

MR. WALKER: While we're on this, a little bit off the FTE deal, Ed, at what level of staffing are we with respect to the 703 -- well, just go back to the 647, where are we with respect to the 647?

MR. SERNA: As of about a week ago we have 50 vacancies, approximately 16 to 18 of those are for the

automation project, and we've held those positions, we're just reaching the stage where we need to start filling them. The other lion's share is in administrative services and it's primarily in IT and we were waiting for the chief financial officer to come onboard --

MS. FLORES: CIO.

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MR. SERNA: CIO -- thank you -- for the chief information officer to come onboard to structure and hire those positions. The other vacancies that are in the 50 are we're down nine licensing clerks in Motor Vehicle Division, we're down a couple of VTR operations specialists, I think Finance only has four vacancies, and I say only because remember Linda started the year with pretty much three employees and she's worked very hard to ramp up and fill her vacancies. So we project that probably within the next quarter we'll have the majority of those filled and we'll have just a normal turnover in any organization.

MR. WALKER: As a taxpayer of the state, when I sit here and listen to -- and Cheryl and I talked about this coming up here today in the car -- is that just because Linda has five openings and the job is being done without those five, we don't take and just say we've got positions available, let's just go ahead and fill those, do we?

MR. SERNA: No, sir, we do not. In the case of 1 2 Linda, using that as an example, the jobs being done by 3 TxDOT employees in that administrative MOU, as she hires her staff --4 MR. WALKER: So we're just transferring from 5 6 their workload back over to ours. MR. SERNA: We're assuming that workload. 7 MR. WALKER: That's the first I've ever heard 8 of that. 9 MR. VANDERGRIFF: You were there, we had huge 10 debate over that. 11 MR. WALKER: I didn't know that our FTE numbers 12 13 were included in the actual people working over at TxDOT. MR. SERNA: No, sir. What I'm saying is we 14 allocated X number of FTEs to financial services. As we 15 assume those responsibilities because she has hired 16 17 people, then we remove those things from the MOU. 18 somebody is doing the work, it's just not a DMV employee yet until we hire them. So for example, we started 19 running our first payroll two months ago in May. 20 MS. FLORES: May, and as of July 1, with a 21 bunch of new hires, we're doing our own payment 22 23 processing, we're paying our own bills, we're doing 24 travel, so we've taken over everything.

MS. JOHNSON: Okay. And does it not give you

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more control over activities?

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MS. FLORES: Absolutely.

MS. JOHNSON: Because I do not see how you could force somebody who works for TxDOT to perform for you.

MS. FLORES: Correct. As a matter of fact, the first thing I'm looking at is the interest charges that we've incurred because someone else was paying the bills when they decided it was appropriate to pay the bills.

MS. JOHNSON: Right. So you're paying some penalties.

Are any of the positions in Licensing, because I understand we're a little backed up, are any of the positions in Licensing we're waiting to get them out of TxDOT, or not?

MR. SERNA: No, ma'am. In this case we have postings, we have vacancies, Molly has postings on the street, we're going through the screening/interview/hiring process, and it's just a matter of getting those people onboard. She had a period where she went through an extraordinary number of staff leaving that left a bigger gap.

MS. JOHNSON: And the state was preaching through the whole session, I think there was 9,000 state employees that were going to lose their jobs, so there

should be a great market out there if that ever happens.

MS. FLORES: Absolutely.

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MR. SERNA: Yes, ma'am, there is. As a matter of fact, if I recall correctly -- and Molly can maybe correct me -- I think for at least two of our vacancies she has two pools of about 80 each or something like that, maybe higher. So yes, ma'am, we're getting a lot of people applying in the pool, we screen down, so being one of the few agencies that is still hiring, we're in a good position.

To just kind of close out, not close out but make sure I try to address Mr. Walker's question, we don't assign positions to somebody just because they say I need some. In the case of Linda, I kind of talked about who was doing the work. In the case of Molly, her staff is working overtime, the current staff is working overtime in order to cover the workload until we can get those additional people hired. So we don't automatically just fill staff.

In the case of the TxDMV automation project staff that were sitting in the executive office, now they've moved to the CIO's area, we didn't need to fill those positions before we needed them. Now is the time that we need to start hiring and that's exactly what we're doing. So we've sat on them intentionally because we

weren't trying to be like every other state agency and just fill a position because we had it, we don't fill it till we need it.

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MR. WALKER: So are Molly's employees non-exempt employees?

MR. SERNA: They are non-exempt from Fair Labor Standards.

MR. WALKER: Don't pay overtime.

MR. SERNA: We do pay. Exempt means you don't pay.

MS. JOHNSON: And isn't that like a \$50,000 threshold or something? I know we're driven a lot by our classification of exempt employees at the county level by the amount of money they're paid, which is kind of ridiculous to me but that's the way they're making that determination at the county level.

MR. WALKER: So what is that costing this agency in paying overtime because we don't have the staff level where it needs to be?

MR. SERNA: It's costing the lapsed salary. I don't have the exact number, but in other words, she's using the money from salaries for the month of May, as an example, for those vacancies to pay the overtime. As she hires staff then that overtime comes off so it's not an additional or new cost to the agency.

MR. VANDERGRIFF: I believe I'm understanding 1 you is that since the position is there but unfilled there 2 3 is funding there available that helps fund that overtime. MR. SERNA: Right, until we fill it. 4 MR. VANDERGRIFF: Until we fill it. 5 6 MR. WALKER: But it's costing us time and a 7 half versus paying it at regular time. 8 MR. SERNA: Yes, sir. MR. WALKER: That's a huge premium to pay. 9 our company we try to balance that so that you don't want 10 to pay everybody overtime because it's cheaper to hire two 11 more people so everybody goes home at 5:00 instead of 12 13 working till 8:00 every night. MR. SERNA: Yes, sir. And same thing with us, 14 we don't like paying time and a half. 15 MR. VANDERGRIFF: Plus you burn out your 16 17 people. MR. WALKER: That's exactly correct. 18 MR. SERNA: And as soon as we can hire them we 19 20 scale back down, we keep our work levels there. You're absolutely right, it costs us more. 21 MR. VANDERGRIFF: It does bring up the 22 23 question, and I'm sorry to ask it here -- this kind of

goes back to I remember back in your area, Mr. Walker --

when two years ago part of the funding increase that you

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got was to be able to afford people to handle the permitting process. Well, they had a problem getting those people hired because the qualification was such that their bracket they were paid a very low amount of money, and I believe someone described it to me as that it was less than an entry level clerk at McDonald's, and yet I remember watching the people work on that and I akin to almost be a ground traffic controller, like an air traffic controller, so a fairly significant activity.

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That's through TxDOT, we don't have that same dilemma. It took six or eight months to get that position elevated to where they actually could pay them enough money to fund them. But that's another thing that your fee increase went to.

And I guess I'd just ask here, I know that licensing is a number one issue, I think, for the people being licensed, the franchisee independent dealers being licensed. Do we have these positions adequately pegged from a compensation perspective to get them hired?

MR. SERNA: Yes, sir. Molly approached me with a plan probably four or five months ago and we funded that plan. So in less time we evaluated and adjusted salaries accordingly in order to not be paying our people less than the people at Whataburger.

MR. VANDERGRIFF: And I remember you doing that

and I commend you guys. Like I said, I know your system 1 is not the same as TxDOT's was. But a few months have 3 gone by and I guess we still have nine unfilled positions, so is there some other kink in the armor here that needs 4 to be worked out? 5 6 MR. SERNA: And that's now what we're examining is what's still driving a lot of that turnover, whether 7 8 it's workload -- it shouldn't be salary -- whether it's workload or some other issue. 9 MR. VANDERGRIFF: Okay. 10 MR. SERNA: But we did have that problem and we 11 did address that problem. 12 13 MR. INGRAM: So you have a new problem. MR. SERNA: Evidently. 14 Did that address your question, Mr. Walker? 15 MR. WALKER: Yes. 16 MR. SERNA: And Ms. Johnson? 17 MS. JOHNSON: Yes. 18 MS. FLORES: The rest of your tables in your 19 60-page document are just more detail that support this 20 Table 5. 21 MR. VANDERGRIFF: Were you afraid that since 22 23 we're only on page 15 that we had quite some time to go? 2.4 MS. FLORES: I just want to make sure that

you're fully informed as we move forward

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MR. WALKER: I think he wants to make a motion to accept the report.

(General laughter.)

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MS. FLORES: There's nothing to accept yet.

In all seriousness, Tables 6, 7 and 8 are really just more detail of this summary page here. So because of your time, I'd like to go ahead and just move forward to a few slides and discuss FTEs.

This is the breakout of our staffing at this point. In FY11 when we started the fiscal year last year, we had twelve FTEs sitting in agency-wide. Mr. Serna during the year allocated all of those FTEs out, and so everything has been moved to where it needs to be moved, the lion's share sits in -- not the positions that were allocated but FTE-wise, the lion's share sits in VTR Division at 252, and that's followed by administrative services at 141.

Motor Carrier Division received two FTEs, and they were auditors, international registration plan auditors, and I kind of wanted to just touch on these as to why they're not sitting in the Internal Audit group. They actually have a total of seven, I believe, staff; they currently have six onboard and one is vacant. But these internal auditors in that division are very specialized auditors. Whereas, an internal auditor would

do an operational review, financial review, compliance review, that type of assessment, these auditors are only looking at compliance with regulations for participating members, so they're not doing the work that a typical internal auditor would do.

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MR. SERNA: Are they more account examiners?

MS. FLORES: They are. They're doing desk

reviews of operational documentation to ensure that number

of miles traveled within this jurisdiction is documented

appropriately. So that's kind of why they sit in that

division versus the Internal Audit Division.

MR. SERNA: And this is probably one of those -- I know it is for the staff -- one of those frustrating situations where in state government there's a classification for positions and the auditor's office and the legislature decide what different positions are going to be called based on a description and there's not a description with a classification that we can use that's an account examiner or an IRP examiner or something like that, so we have to use the one that is the closest to it and that's auditor. So that's why they're classified as auditors.

MR. WALKER: Why wouldn't we have put those people in Motor Carrier?

MR. SERNA: They are in Motor Carrier. We're

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addressing why they're classified as auditors. 1 MR. WALKER: I thought you said they were in 2. Audit. They are in Motor Carrier. 3 MS. FLORES: They are in Motor Carrier, we 4 believe that's the best place for these individuals. 5 6 performed approximately 405 audits in calendar year 2010, and I think to date they've performed about 163 audits. 7 8 So they're very specialized individuals. MR. WALKER: Are we still sending the auditors 9 out to locations or are we doing it all within our 10 facilities? 11 MR. BRAY: We send some out, and in fact, we 12 13 have a request that's about to go to Mr. Serna, if it hasn't already gone, we're sending two out of state to 14 Pennsylvania for a very, very large account in the fall, 15 September. 16 MR. SERNA: So we do both. 17 18 MR. WALKER: What makes you pick up an account in Virginia and say I want to go audit it? 19 20 MS. JOHNSON: Ms. Flores, could I ask a question on the FTEs? You've moved Lemon Law from 21

requires the legal staff?

MR. SERNA: It's primarily an Enforcement

Consumer Relations, or Mr. Serna, we've moved Lemon Law

from Consumer Relations to Enforcement. Is it because it

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function versus a Consumer Relations function. When I had 1 first created the new organization in June, I looked at 2. 3 what Lemon Law was being called, consumer protection, and thought it fits in Consumer Relations. I received 4 feedback from that particular section manager, from Ginnie 5 6 Booton, the Consumer Relations director, from Bill 7 Harbeson and from others, and what they indicated is it 8 fits more in the enforcement realm where there's an investigator, or in this case a consumer protection 9 advocate, but the case still goes through the attorney, 10 still follows that SOAH process, and it fits more in that 11 sort of a compliance role than in a Consumer Relations 12 13 role.

MS. JOHNSON: And that makes sense, and some of the cases that are going to SOAH are Lemon Law.

MR. SERNA: Yes, ma'am.

MS. JOHNSON: And is that the same as the motor vehicle consumer complaints, is that essentially the same thing?

MR. SERNA: Yes.

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MS. JOHNSON: And is eight enough to bring us up higher from 64 percent to maybe to 80 percent of them being resolved?

MR. SERNA: I can let Bill address it. That's one of those things where the number that come to us not

controlled. We have, in fact -- and Bill will talk about this -- but we have, in fact, improved already the turnaround time of those cases. A lot of then what delays our completion is we hand it off to SOAH so it leaves us, it goes through that lengthy process, and then it makes it back to us.

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MS. JOHNSON: So it's not really the number that we're resolving, and I think I remember asking last year does it need to be the percent of motor vehicle consumer complaints resolved or the percent of motor vehicle consumer complaints referred to SOAH. Because we could refer 100 percent, it doesn't mean we're going to get back all of them, and then that way it's a true picture of what we're doing that we have control over rather than being affected by somebody else's behavior or lack thereof.

MR. HARBESON: Yes, ma'am. My name is Bill Harbeson. I'm the director of the Enforcement Division, and we had this conversation earlier.

These performance measures are in large part out of our hands on how they're worded, and I think in the organizational assessment you see we tweaked the words to try to more accurately describe exactly what's happening.

But Mr. Serna's description is correct. Where we are dedicating more efforts in that section is at the

front-end of the process when our case advisors, these are certified mechanics, work with the consumer and the manufacturer to try to resolve the case at that level, the early stage prior to it having to go to SOAH. Once it goes to SOAH, again Mr. Serna is correct, it's really out of our hands as far as control. Some of these cases will last for years. And so the processing time is somewhat skewed because you have one case that could be resolved in the first week by the case advisors and another case that goes the entire SOAH route, then possibly to district court on appeal, could take us years to resolve.

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MS. JOHNSON: So there isn't anything that we can necessarily do, such as dedicating more resources to that department or more FTEs, in order to improve those numbers. It's really not what we're not doing? It's the legal limits and then the process itself. I just want to make sure we're giving enough resources because 64 percent doesn't seem like enough to me.

MR. HARBESON: Yes, ma'am. The actual number of cases that are coming in to us in the Lemon Law area has actually decreased in the last couple of years. So again, what we're doing is concentrating on the front-end to try to keep it out of the SOAH contested case hearing, and it's my opinion that we're adequately staffed for the number of cases that are currently being received.

MS. JOHNSON: Okay. That's what I needed to 1 2 hear. Thank you. 3 MR. BRAY: And there's something about that number that's a little odd because in reality all cases 4 are resolved eventually. It may not be to someone's 5 6 liking, but in the end, all 100 percent of the cases have some kind of resolution in the books. 7 8 MS. JOHNSON: It's like we eventually collect 100 percent of the taxes, it's just it might be 20 years 9 from now. 10 MR. VANDERGRIFF: It would almost be a better 11 measure if it showed timeline, how long it takes to 12

measure if it showed timeline, how long it takes to resolve them to get to that all cases resolved position.

MR. HARBESON: As far as a management tool,

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yes, sir, as far as where do we dedicate the resources.

And we are tracking those times and we can provide those to the board about where time is being spent on these cases, whether it was on the first 60 days, during the SOAH proceeding, or post-SOAH review by the board or the Motor Vehicle director.

MS. JOHNSON: And when do we or who does have the ability to get this worded right? Isn't that us and is it going to come soon?

MR. SERNA: There's actually two mechanisms.

At the beginning of the legislative appropriations process

the LBB will put out a call for do you want to adjust your measures, and we'll try again. If you recall the frustration that the staff and the board experienced when we had to just kind of take measures that we got from TxDOT and keep them with no change. We'll try that again, so there's that one process.

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The second will be through the establishment of a strategic plan and actually measures that are meaningful to the board and me as executive director and to the management team and the public, they're more meaningful to us, that we post on our website, that we report to you. So we'll end up having the measures that we have to report to the legislature that they say report this, no matter what, kind of like the number of vehicles registered to determine VTR's success, but then also the measures that you indicate to us and that you approve -- you meaning the board -- that say yes, this means something to us. The turnaround time on those pieces of the Lemon Law cases that we control, or the turnaround time on completion of a motor vehicle application or the issuance of an oversize/overweight permit, things like that.

So we'll have meaningful measures. These, unfortunately, are the ones that we were stuck with, and I don't mean to sound negative, but the ones that we were stuck with through that legislative process that we were

very frustrated with about a year or so ago.

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MS. JOHNSON: So every couple of years we have a shot at hopefully making them more accurate or appropriate for the agency.

MR. SERNA: Yes, ma'am. And I will tell you, just my own 28 years experience, the likelihood of them actually changing something is probably less than 10 percent. I remember being in an agency where a function wasn't performed anymore but they still wanted the measure there for two more years.

MR. VANDERGRIFF: What we can do, even if we can't affect that, and I would expect us to do that shortly after the organizational assessment is done, is to really go through with the staff and try to put some meaningful performance measures in place. Even if they're not the official ones that the State LBB looks at, they would be ones that we as a board and as an agency would look at that would be responsive to the industry and the state needs.

MR. SERNA: And that support a real strategic plan that we put together. Remember that frustration too where we had the form that we were filling out. So we'll do both of those.

MS. JOHNSON: Okay. Thank you. And thank you, Mr. Harbeson.

MS. FLORES: The only other major shift in our FTEs for '12 are the transfers from the automation support group out of the Executive Director's Office into administration. We did leave one FTE sitting back in the Executive Director's Office. That person is a project manager for the business process analysis, so we felt it was appropriate for that person to stay within the ED's office since they'll be touch various division stakeholder groups. But the rest of the staff have now moved under the chief information officer's area.

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MR. SERNA: And just one thing to clarify on that one position so that the board understands, the business process analysis project, the BPA, or part 2 of the automation project is set to be completed at the end of December. That FTE will roll off. It's a contract FTE and we'll simply eliminate that position.

MR. WALKER: Linda, on the FTEs that are coming over from Oversize/Overweight --

MS. FLORES: Are not in there, not yet.

MR. WALKER: But when we do move them over there's 50 of those, I think.

MR. BRAY: It's 116.

MR. WALKER: One sixteen. Are we going to put all those people under Motor Carrier or are they going to get dispersed into different departments?

MR. SERNA: There are approximately 20 investigators or enforcement types that will be moved to Enforcement Division. The others will initially come to Motor Carrier Division because we want to have a smooth transition. After TxPROS is up and running and fully functioning, we anticipate, and I think they anticipate as well, that we won't need that many people issuing permits because the system will be issuing permits. We will then be able to utilize those resources in other areas, so for example, if we needed to add resources to Consumer Relations or Motor Vehicle or something like that, or we will simply not fill them and leave them vacant. But initially they'll come into Motor Carrier.

MR. WALKER: You're going to have to pay 117 more people a paycheck. Does it affect an accounting functionality?

MS. FLORES: I've had that conversation with my boss, so we're going to be addressing that, yes. Another 116 individuals having to run payroll, having to collect revenue, report on revenue, that is an impact to the Financial Services Division.

MR. WALKER: And when we took on Oversize/Overweight which is 117 people, was there any consideration given to the 117 people that would come over, did any of those functionalities come from

accounting?

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MR. SERNA: That will be part of what we include in that MOU negotiation. The only thing that was identified by the legislature were the people in the program, no human resources, no accountants, no IT. We'll have to negotiate that part of it.

MR. WALKER: Well, that's not even my point. My point is do we recognize that there's going to be a need for other people to carry out the functionality?

MR. SERNA: Yes, sir, we recognize the need.

MR. WALKER: There's a bunch of revenue. I mean, we're talking about \$96 million in revenue coming into this agency. Have you reflected that somewhere?

MS. FLORES: No other FTEs have been identified for other functions of the agency, not yet.

MR. SERNA: We know we need more resources to do these other things. We'll either try to find those resources from the 116 that we get, or I'll have to evaluate the 647 and see if I can move some from there, we're already pretty tight. But unlike a business, I can't hire an additional accountant, I can't go over my FTE allocation which is 647 plus 116, so unless I can negotiate it from TxDOT, negotiate that FTE from TxDOT.

MR. WALKER: So what you just said is that TxDOT transfer some of their FTEs to us out of the MOU?

MR. SERNA: In the MOU

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MR. WALKER: In the MOU.

MR. SERNA: Yes, sir. In the MOU, as part of the transfer of the Motor Carrier Oversize/Overweight function, we can negotiate -- I mean, the 116 are known but if TxDOT agrees they can say we've got this accountant and this HR person and these two IT people, and we would say the transition is 120, 116 for the program and four for these other areas, and their salaries.

MR. WALKER: That would satisfy the LBB.

MR. SERNA: Yes, sir.

MS. FLORES: Moving on, the last set of schedules in that 60-page document have to do with contracts, and Tables 10, 11, 12 and 13 were all compiled as a result of what was agreed to at the April board meeting, the matrix for signatory and delegation authority.

The first table are the statutorily required contracts and I've identified those for you, and actually Mr. Serna discussed that \$13 million with the Department of Criminal Justice with you. That's pages 35 of the document through 49. So it's a listing of anticipated contracts. Now, they are not set in stone, they may or may not occur, but this is what we were able to compile.

We also had a question raised about temporary

services. Some of these contracts have multiple line items, they have multiple beginning/ending dates, and the question centered on whether or not the items were specified for salaries. And I guess what I need to make sure I discuss is the amounts that are listed on that contract amount are paid to the company that we engage for a specific service. So it could be an individual, it could be multiple individuals, so it's a combination of both. That amount also has to include any specified travel that the individual performs on behalf of the agency, so it's not just salaries.

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Table 11 on page 50 through 53 --

MR. INGRAM: Before you move on, just one quick question, on the contracts that are listed on the statute required contracts, you said that we may or may not execute those contracts?

MS. FLORES: Correct, because the effective date would be September 1. Some of these were executed in previous fiscal years and there's a renewal process, so that's why they're sitting in this document. I didn't want to leave anything behind that we could renew.

MR. SERNA: One of the things that we heard very clearly and we're attempting to do is provide as much information to the board members on potential contracts and their ceiling amounts, their not-to-exceed amounts.

We heard clearly from the board that we needed to provide information in advance about what we might be doing, so this is kind of that sort of advance checklist. When you look at the dollar amounts, those are not-to-exceed amounts and it's not the salary we pay for an individual, as Linda indicated, that's what we pay the company and it includes other costs as well.

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But we were trying to maybe provide more information than the board cares about, we can certainly fine tune this, but we thought it would be better to say these are all the things that we could potentially contract for.

MR. VANDERGRIFF: I think this is great. I think it gets to the point that several board members had about this area, and again, it's almost an informational item on them but it certainly provides that information.

MR. SERNA: Yes, sir. But we heard the board loud and clear and are trying to do that with this budget.

 $$\operatorname{MR.}$$ VANDERGRIFF: I want to acknowledge that and appreciation for it too.

MS. FLORES: The contracts that we'll be bringing to the board specifically are included in Table 13, those contracts over \$200,000. That's where the executive director will bring them before to receive board approval for execution.

1	MR. VANDERGRIFF: And by the way, if there are
2	any other contracts that in the negotiations fall in this
3	category, we will bring them to the board as well, this is
4	not he only ones.
5	MS. FLORES: Correct. This is just our first.
6	MR. VANDERGRIFF: What you know today.
7	MR. INGRAM: Well, being the new kid, what is
8	IRP?
9	MS. FLORES: International Registration Plan.
10	MR. WALKER: That's a trucker term.
11	MR. VANDERGRIFF: Linda, I would delegate that
12	to Johnny.
13	MR. WALKER: Registering trucks so that they
14	can operate in all the different states.
15	MR. INGRAM: Thank you.
16	MS. FLORES: And as Mr. Serna mentioned, this
17	is just our first presentation. There's no action
18	required. This was our presentation to the board on the
19	preliminary budget. I have made notes of some minor
20	adjustments and changes that we will incorporate for the
21	August board meeting. And with that, I conclude my
22	presentation.
23	MR. VANDERGRIFF: I just want to also note that
24	you had about four pages at the end of that last appendix

that goes through the state budget cycle and the roles and

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1	responsibilities.
2	MS. FLORES: Glossary terms and definitions.
3	MR. VANDERGRIFF: Very nicely done. I
4	appreciate that as well.
5	MS. FLORES: Thank you.
6	MR. BUTLER: Ms. Flores, may I ask you one
7	question?
8	MS. FLORES: Yes, sir.
9	MR. BUTLER: On the May financials that's just
10	behind that, is there any way we can get those with those
11	pennies off of there?
12	MS. FLORES: Absolutely.
13	MR. BUTLER: And not so many dollar signs.
14	MS. FLORES: Okay.
15	MR. BUTLER: It would make it much easier to
16	read. Thank you.
17	MR. WALKER: Good job.
18	MS. FLORES: Thank you, sir.
19	MR. SERNA: Mr. Chairman, this is all I have
20	unless any board members have any questions for me on any
21	other issues.
22	MR. VANDERGRIFF: I just want to be clear
23	again, I know you covered this with the automation system
24	project, but we are on target through the business process

analysis to deliver -- we're on the clock already for

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delivering something significant and we've talked about that number repeatedly in Linda's presentation, the \$45 million in this fiscal year coming up, and then the finish-up in the following. So we're on target to deliver significant results?

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MR. SERNA: Yes, sir. The business process analysis is on target for a December completion. In October we'll start working on the request for proposals that we'll put on the street in February so that by the time the legislative session starts, we'll be well on the way to acquiring new technology. So that is on track. That's one of the other reasons that the business process analysis stayed in the executive office because if affects all the divisions as well as our stakeholders and I wanted to have that kind of attention on it right now. So we are on track, yes, sir.

MR. VANDERGRIFF: Super. Thank you.

Thank you again, Linda, and both Lindas,
actually. I know Linda Castro worked.

The next item on our agenda, and we've kind of jumped around a bit, but it is the legislative report from Jeremiah Kuntz and Denise Pittard. I don't see Denise actually here.

Before you start, can I note something, if you don't mind? I, obviously as the board knows, spent a

considerable amount of time during this legislative process, as did the vice chair, and I want to commend the overall staff effort. I thought it was tremendous from the executive director through Linda and her team and Denise, particularly on the budget side of it. We fared well there, all things considered.

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I've got to pay significant amount of kudos and accolades also to the three-person legislative staff. I mentioned Denise, Jeremiah, obviously he came in and hit the ground running on February 1 and I think it's safe to day that a lot of our success we wouldn't have had without you, so appreciate that, and then Katharine keeping people calm and the office informed. So appreciate all of that effort.

And then last, but certainly not least, was the General Counsel's Office and his three lawyers. And most memorable anecdote from the session -- Jennifer, Aline and Lea all did tremendous work, but my most memorable anecdote from that I think was I sat in a meeting on a particular bill and was there sharing a chair with Lea, I got the experience of being on the other side of it as a state agency employee, so to speak, as the board chair. I didn't sit at the table with the parties, I sat behind and we shared a chair, that's what we got which was fine, but it was clear we weren't going to get many questions.

And so I left and demonstrating what I think is proper executive leadership, delegated it to Lea to keep the entire chair to herself and to stay until they were through. And then I get a text from a chief of staff and another two different texts from another significant player in this negotiation saying that with several major elected officials that Lea had raised her hand just to make sure and correct them on some mistakes they were making, so I was wondering what she was doing.

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But the point being that the staff very adeptly got engaged in their roles in all areas for the agency, were not afraid to defend positions, push positions, but yet be properly deferential to elected officials and other interested parties. The greatest compliment I can pay you is I looked around and there's some association executives here in this meeting, that they came to not only work with you but rely on you as partners in their process. So I think that was very impressive.

So my hat's off to all of you for just a tremendous job moving it forward.

MR. SERNA: Thank you, sir.

MR. KUNTZ: Jeremiah Kuntz, director of Government and Stakeholder Relations.

What I wanted to do is kind of give you a recap and we've got a report that we put together for the board

to give you a recap of all the bills we kind of worked on that are going to affect the agency.

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I guess first I'd also like to thank Katharine and Denise for a lot of the work that they did to help me compile all of the bill analysis and everything into this document to make this document a reality for today. We relied heavily on other divisions to really provide a lot of the information that's contained in it, the bill analysis and the implementation plans that re contained within the document. So I just wanted to thank everybody that helped put this report together, it was a pretty good undertaking.

It was a very busy session for us, very successful session. Part of that was due to the fact that we're a new agency; the other part had a lot to do with the expectations that the legislature has for the Department of Motor Vehicles. They've got pretty high expectations of what we can accomplish and what we have accomplished, and there were a lot of pieces of legislation and moving parts that were circling around during the session dealing with how to either shift functions to us, change our functions, add functions to us, so there was a lot of moving parts during the session.

Just some brief statistics. There were about 6,003 bills filed during the legislative session, I think

there were 114 filed during the special session. We tracked about 591 of those because they either impacted us, could impact us, or might impact us in the future, so we were just tracking them out of caution a lot of times. Of those, there were about 117 that passed the legislature. We sorted through all of those after the session to try and figure out which ones actually had an impact on us. We settled all the dust on that, we're down to about 41 bills. Those are all contained in this report.

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I want to kind of hit some of the high points, some of the major pieces of legislation that affected us, talk about our legislative package, our priorities that we had. So the biggest bill, obviously, for any agency is House Bill 1 which is the appropriation bill. Linda talked a lot about that during her presentation. We were very successful at getting what we requested in our LAR. We actually were successful at also getting a rider, that we discussed extensively with the board chair, that gives us UB authority which is unexpended balance authority for capital budgets.

We worked a lot on our capital budget rider to ensure that there was carryforward for the automation project so that we didn't have an issue of having to spend a certain amount in the first year and then having to

spend another amount in the second year. We've got the flexibility to move that money between biennial years so that we have a good fluid expenditure on that project.

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There were two bills that really kind of affected the budget. First we've talked a lot about the Oversize/Overweight bill; the second was HB1541 which dealt with Automobile Burglary and Theft Prevention Authority. That function was zero funded in the base budget. There was a contingency rider that got added to the budget that basically said if this bill passed -- which it did -- that the agency would get its appropriation restored. That bill actually adjusted the funding for that program, it increased the funding by \$1 on everybody's insurance premiums per year, and that money was to help fund the appropriations for the ABTPA.

MR. VANDERGRIFF: Let me stop and ask a question. So the fund went from \$1 to \$2.

MR. KUNTZ: Correct.

MR. VANDERGRIFF: Make sure the board understands that. And the extra dollar now stays in general revenue.

MR. KUNTZ: Correct. The original dollar that was being collected got swept into the general revenue fund, helped balance the budget, they increased it by the one dollar and appropriated the revenue from that second

dollar to the function for the ABTPA program. 1 MS. JOHNSON: Is that a dedicated funding 2. 3 source now? MR. KUNTZ: It is not. 4 MS. JOHNSON: So they could lose that. 5 6 MR. KUNTZ: It could. It goes into the general 7 revenue account. It was at one time dedicated; it no 8 longer enjoys a dedicated account. It still is dedicated by statute for that purpose so there is language that says 9 what that dollar is being collected for and should be used 10 for, but it still doesn't tie it in any way, there's not a 11 dedicated account or anything. 12 MR. WALKER: So the ABTPA was originally set up 13 was we collected \$18 million a year and I think \$3- or \$4 14 million of that went into the general fund and then the 15 rest of it went to the grant program. Is that not 16 correct? 17 18 Charles, you're back there. How far am I off? How much did we collect? I thought we collected \$18 19 million. 20 MR. CALDWELL: I'm Charles Caldwell, the 21 director of the Automobile Burglary and Theft Prevention 22 23 Authority. The annual assessment averaged around \$15 2.4

million. We were appropriated anywhere from either \$12-

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to \$15 million. This last year they collected \$17-1/2-, 1 2. we got \$15 million. 3 MR. WALKER: So my question is you lost \$2 million to general funds because they changed that in 2005 4 or somewhere around there. 5 6 MR. VANDERGRIFF: The previous year they lost 7 more, they only got \$12-. 8 MR. WALKER: But now the new bill I think says that 50 percent of it is dedicated to the fund. Is that 9 correct? 10 MR. CALDWELL: Correct. 11 MR. WALKER: So actually the grant program 12 13 picked up an additional \$4 million out of this deal. 14 Right? MR. CALDWELL: Could be a possibility. 15 certification hasn't come yet to what the actual 16 collection would be. There's a possibility there could be 17 \$18 million collected this year. 18 MR. WALKER: But whatever the number collected 19 is, 50 percent is going to go to the grant program. 20 21 MR. CALDWELL: Right. MR. WALKER: So the police departments picked 22 23 up money out of this deal. MR. VANDERGRIFF: Depending on what the total 2.4 25 revenue generated is.

MR. WALKER: Well, it's got to go up.

MR. VANDERGRIFF: You never know.

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MR. WALKER: You think there's going to be less insurance policies written?

MR. CALDWELL: It's based on insurance policies that are written, but there's a lot goes into based on the term of the policies. So as those collection assessments are being collected throughout the year, then with the increase in the fee then we'll get 50 percent of what the total is collected on that. But as some of the vehicles are taken out of the State of Texas — it just depends on the assessments on the insurance companies and how many vehicles that they're actually assessing that dollar figure to. Some of the policies are even 30-day policies so you don't get a full dollar on that, you may get 12 cents. So it just depends on the term of the policies.

MR. WALKER: I've got a dumb question, and there is no dumb question, but I got my insurance bill last week for my son for his car and I saw that \$1 fee on there for Auto Burglary and Theft, let's assume that I wanted to be a hard ass and just scratch out that \$1 and pay the \$1,800 and not pay the \$1, what happens in a situation like that?

MR. CALDWELL: It's up to the insurance agency to assess that dollar to you for you to pay it. Even if

you don't pay it, that company is liable to pay it based on the term of the policy.

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MR. WALKER: So you still get the money.

MR. CALDWELL: We would still get it.

MR. WALKER: So you're getting it based on the policies written.

MR. CALDWELL: Right. Any other questions? Thanks.

MR. KUNTZ: Moving out of the budget then into the DMV's priority bills and the agenda that we had that we took across the street to the legislature, there were really four priority issues that we were working on during the legislative session. One was the cleanup of 3097 from the previous session. That was House Bill 2017. allows us to have delegation authorities, it changed the advisory committees that the board can appoint, and then it had various other just cleanup provisions of changing from board to department to allow some of the functions to be handled at the department level rather than at the board level. That was very successful, we were able to get that bill passed, we didn't really have any opposition to it, we had broad support from the legislature, and that one actually sailed through pretty well.

The next priority was our Vehicle Title and Registration bill which rewrote all of you Vehicle Title

and Registration statutes allowing us to move into the electronic world. It allows for electronic signatures, it allows for payment by credit cards, it allows us to collect credit card fees. It was a very large bill, 350-page bill that basically rewrote, re-codified all of the statutes dealing with the Vehicle Titles and Registration program. That was a critical bill in order for us to really move forward with our automation project. It had a lot of the functions tied up with the automation project that needed to pass.

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MR. VANDERGRIFF: I want to point out on that bill the sweating that went on during that process, and again, the hard work by everybody. That was actually a bill that people saw at the end of the session that was a life raft potentially for lots of other bills, and it actually finally got through on the back and forth process through the House at I think about ten.

MR. KUNTZ: It was ten o'clock on the last day to have a bill passed. It was one of the last bills out.

MR. VANDERGRIFF: It wasn't because it was bad, it was because it was actually good.

MR. KUNTZ: Correct. They saw it as a bill that was going to pass that was very broad in caption that people could add things to it, which is actually what ended up sending it into the conference committee.

We actually had somewhat of a contingency plan in that we pulled some of the what we would consider bare bones essential pieces out of that bill and put them into the cleanup bill so that we were duly covered, so that we had kind of a backup plan. We wanted to make sure that those things that would allow us to do the automation

7 project passed.

The next two bills that I really want to talk about were ${\tt HB3295}$ and ${\tt HB3413}$.

MR. VANDERGRIFF: I'm sorry to interrupt but one other person I need to make sure to mention. The vice chair spent a lot of time pre-session on what in effect was HB2317 and HB2357 to get those in shape through the industries, and we had broad industry support for those bills too.

MR. KUNTZ: And that support carried through the session, we had a lot of good support from people. There was obviously cleanup things that we ended up doing but we worked with industry to make sure that we got everything cleaned up that they needed to get cleaned up in the bill. So it ended up being a very good bill.

Those next two bills, one would have allowed the agency to set fees by rule. It was really boiled down to a study really to have an official study to look at studying the possibility of setting fees by the board

through the administrative rule process. The other would have allowed us to create a dedicated account specifically for the Department of Motor Vehicles outside of Fund 6.

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We worked a lot with the legislature on those two bills. At the end of the day there just wasn't at this point in this session any kind of support really for broad authority for administrative rule setting. We were still successful even in 2357 with getting a couple of fees. One that comes to mind is the bonded title fee, we're allowed to set that by administrative rule. But there just wasn't the broad support at this time to just allow blanket basically allowance for us to set all of the fees that we look at.

We talked a lot with members of the legislature about studying that in the interim, about bringing back maybe some suggestions on collapsing fees or consolidating fees. So I think there's still opportunities to work with them on our fee structures, but with everything that was going on during the session with the budget shortfall and such, they didn't really have the time or energy to really put into that bill. And it was a pretty large undertaking to look at all those fees, we've got quite a fee, there's over 200 or so fees that we oversee.

MR. VANDERGRIFF: I was going to ask in this process, and I know we can work this with the executive

director and the appropriate staff, but it was a very, for me personally -- by the way, these, along with one other part, plus the UB transfer item, there were four items that really split out from the semi-independent idea which it became pretty apparent we're too big an agency and this was too tough a time period that that was going to gain traction. But these individual ideas parsed separately had some interest, had great interest, actually, up until they ran into the wall of the Texas Legislature which basically thou shalt not do any new fees, that was a real concern.

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But I think we need to, from the agency's perspective, look at these 200-plus fees, what they are. I mean, some of them haven't been looked at in decades, literally, either adjusted or eliminated, and I think they need to be looked at across the board -- and this agency doesn't need legislative authority to review all those fees -- and then perhaps come up with recommendations before the next legislative session which I predict will be more inclined to look at certain fees and expenses and put them in line.

The dedicated account -- pardon me jumping in here -- that did run into some issues about who gets to be the revenue estimator of the money and who's in charge.

We got, I think, tremendous ground of educating who we

are, where we want to go, and I think that whether it's next session or the session beyond that or whatever, I think some of these ideas that were birthed with them in this session, as the agency continues to have great success that we'll be able to get there.

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The one that you didn't bring up, and you probably weren't, that got absolutely killed -- these actually were debated, bills were actually produced, discussed, there was issues, except for the idea, which I know to retailers here on this board we understand incentive pay and commission pay, and that didn't even get to first base because of issues and problems in those areas in other state agencies. Personally, if I had a top ten list of surprises, that would have made it just because, again, I come from a world, as do most of these board members, where that's part of the norm of what we do, but that just at this point in time was not going to be considered.

So pardon me for interrupting.

MR. KUNTZ: That's very good.

So the last thing that was kind of not really a priority or anything of the department but had a pretty significant, I guess, telling of the performance that we're operating under was in SB652 which was the Sunset date bill. It is basically a bill that sets out all of

the schedule for all of the agencies' Sunset dates. It's how Sunset schedules their workload out.

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We originally had a Sunset date of September 1 of 2015. They felt inclined to go ahead and push that until 2019. They will not do that if they feel uncomfortable with an agency or feel like an agency is not performing at a high level. So it was definitely a credit to the agency that they had comfort with us, that they felt they could give us four more years without having to put us through the Sunset review process.

We've talked pretty extensively about Senate Bill 1420. That one was the one transfer bill that came out of the legislature. There were quite a few that were talked about that were debated. There was a bill to send the vehicle inspection program from the Department of Public Safety, the driver's license program from DPS and boat registration and titling from the Parks and Wildlife Department. Those bills had hearings, were debated, but at the end of the day they really pulled them down because all of those bills really came up at one time, they were all looked at, and there was really a feeling from the legislature that it was too much to put on the agency at one time to transfer all of these things over.

And so really what it came down to was the most important one to the legislature was Senate bill 1420

which had the transfer of the Oversize/Overweight provisions into it and that was the one that they moved forward with. They left the other programs as is with their current agencies and it didn't look like there was any intent to move those.

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MS. JOHNSON: Mr. Kuntz, did any of the bills pass, because there were bills that were filed -- and I read through all this and I don't remember seeing them -- that mandated a study such as there was one that was filed that DPS and DMV would get together and look at driver's license? None of those made it through?

MR. KUNTZ: Those did not.

MS. JOHNSON: But there's nothing to prohibit the chairman or the executive director from commissioning a study to look at that in anticipation of the next session, is there?

MR. KUNTZ: There is not. There is a study in 2357 with DPS and the DMV to discuss information sharing, but that's not on any kind of transfer, it's more on the sharing of information on the registration system and the driver's license system. It was really more of figuring out if there is a way for us to share data.

MS. JOHNSON: A selling point for that in the future might be a lot of your tax assessor-collectors, such as myself, are also voter registrars and there's a

big push with voter registration and voter ID to move DPS and those registration certificates have it be combined in the driver's license. Some of those functions are already in our offices so that might be a partnership that will work, have mutual benefits.

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Texas Parks and Wildlife, let's talk about that for just a minute. They didn't want us to take them over but they wanted us to add an optional fee to the registration? Talk about that just a little bit. I'm sorry, I have to.

MR. KUNTZ: There were two bills dealing with voluntary contributions on a registration renewal form.

The one that you're referring to -- I'm trying to remember my bill number here, I can't remember if it was SB1635 was Veterans and HB1301 was the Parks and Wildlife Department.

The first bill that really came out was the Veterans bill, 1635. That one we currently had basically an information block on the back of the renewal form that gave information on how to donate to the Veterans

Assistance Fund. The Veterans Commission really wanted something on the front of the form so that they had more visibility to the public so that there was really a blank on that form so somebody could check that off, write a dollar amount in, and the county tax assessor-collectors could collect the funds and remit them back.

The Parks and Wildlife Department form was slightly different in that the LBB had a recommendation in what they called a GEAR report which is the Government Efficiency and Reform report, something like that. That report had a recommendation that the agency their budget was reduced and that a voluntary contribution box be added to the registration form. And the LBB concluded in their fiscal note that that would collect, I believe it was like \$1.2 million or so, \$1.6 million for them to be able to fund the parks system.

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So really the genesis of that came out of an LBB finding and report. In talking to Parks and Wildlife, they seemed to indicate that that was really where the genesis was, that they weren't the ones that were really going after it, but because their budget had been cut, they needed the bill to pass, they needed it in order to fund their parks system.

Currently they collect boat registrations and they title boats, so they have a system there but there's not enough penetration, there's not enough people registering and titling boats to really get the same bang for the buck, if you will, on the number of vehicles that we've got out there. Twenty-two million vehicles versus 50,000 or so boats, you can see the difference on how much exposure you get. So that was really, I believe, where

the genesis of that legislation was.

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MS. JOHNSON: We do anticipate tax offices taking a little bit longer at the counter to explain this to people. But thank you, because I know you and Randy both worked on making that an opt-in rather than an opt-out, and that was the way that I believe that they wanted it and it would have been a lot harder for us that way. So thank you.

MR. KUNTZ: You're welcome. And I believe
Randy has been working pretty heavily trying to get those
two check boxes onto the renewal form. That bill has an
implementation date that requires the renewal notice for
somebody that is renewing their registration in January to
have that on that renewal notice. So we're really pushing
hard to get that renewal notice updated, get all that
voluntary contribution stuff on there. So I know Randy
has been working pretty hard on that.

MS. JOHNSON: Thank you.

MR. KUNTZ: That is really the main pieces of legislation that I would say we really worked heavily on that were of major consequence to us. We had extensive bills dealing with license plates, we had a few bills dealing with the administration of the agency, kind of bills that really affect all state agencies, so there were HR type bills and such and a couple of finance bills as

well. So that's really the main legislation that we worked on, but I'm more than happy to talk about any of the pieces of legislation that you find interesting or have more questions about if there's additional questions.

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MS. JOHNSON: Just a comment, and I told you personally, but I have to say this is a great document. We've been doing a lot of research in our office on what we have to prepare for and this is a plan and this was great, so everybody, whoever was responsible for this, thank you.

MR. KUNTZ: And I guess I should talk a little bit about that, put some context around it as well. Each of the 41 bills have a separate plan, if you will, on what it will take to implement. So it's got a short summary of the bill, it identifies the team members, those people that are going to be working on the bill. That way the board and other staff know, if they've got a question about something, who to contact. It really was to kind of be not only a plan but a communication document for the rest of the staff so that people that didn't work during the legislative session have a reference document that they can go to, find out what's going on, why are we changing this. They can now see this is the bill, this is what it does, this is the plan to implement it, and then any kind of schedule and stuff that's there.

We also tried to identify when we knew if there was going to be any kind of effects on any industry, the public, programs. That was meant to identify any issues that we might see as we're implementing. It was to try and really find out if we're going to hit hot button issues or really have support for this, or if it's not really going to affect the public. So we had a section to try and identify those issues, and then also an area to try and identify planned stakeholder involvement.

Specifically with 1420, we know that we're going to be reaching out through this advisory committee so there will be extensive work with the industry, with our partners to try and implement the provisions of that bill. We tried to identify that for each and every bill.

MR. VANDERGRIFF: Can you also maybe give a little bit of extra time to the lessons learned on House Bill 1035?

MR. KUNTZ: Yes. And I guess I didn't hit that one, I should have.

SB1035 was the bill that would have created a licensure function for vehicle title service companies and runners. Currently there is a section of the code that allows each county to regulate them individually if they meet a certain population threshold. Senator Williams really was pushing hard to try and get that legislation

passed. It passed both the House and the Senate, but at the end of the day the governor thought that there was too much regulatory burden that was going to be put on the industry and he issued a veto proclamation on that bill.

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The veto proclamation, unlike most which just say I don't like the bill, it's done here, gave us a task and it basically tasked us with talking with the industry and talking with the county tax assessor-collectors to come up with a way to try and sort out this issue. It was almost as if he gave us a charge to study the issue, see if there were ways that we could solve the issue under the current legislative statute, and then also if there wasn't anything there to potentially bring recommendations to the Senate and House Transportation committees for them to consider next session.

So we will be putting together a team to look at that issue specifically to try and create some recommendations, working with the General Counsel's Office extensively for them to kind of evaluate what the current system is and then potentially talk to the county tax assessor-collectors about what they can do under the current system, because they do have some ability to regulate this industry under the current statutes.

MR. INGRAM: That actually might be a pretty good segue for me into House Bill 2017. Some of the items

that are listed in the summary, it appears to be a very broad bill, like one of the things it says is allowing the TACs to license franchised and non-franchised dealers to title and register motor vehicles. Is that kind of in the same vein of what we're talking about now, or is that different?

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MR. KUNTZ: It is different. That actually was a provision that was both in 2017 as well as 2357. That was one of those provisions that I talked about that we took from 2357 and put in here as kind of the backup plan, if you will, to make sure that that stuff passed. That really is more along the lines of -- I don't know how else to describe it -- deputizing a dealer to issue the titles, to act as a contractor, kind of like H.E.B. does for the registration system.

MR. INGRAM: Much like the vendor program that we have in place now?

MR. KUNTZ: Correct.

MR. INGRAM: And then also it says: establishing standards for uniformity and service quality for counties and dealers. Pretty broad.

MR. KUNTZ: That is with regards to the vehicle titling and registration system. I guess it sounds broad in the context of this bill analysis. That section was very specific to the vehicle titling and registration

services, it did not affect the licensing of the dealership or the way the dealership operates as far as their business model or any of that kind of stuff.

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MR. VANDERGRIFF: This was a huge gain. Our predecessor divisions in TxDOT even had worked for years to gain the confidence and relationship with the tax assessor-collectors so that we can set a standard of performance. Maybe it varies -- and this board will see that topic here -- but this may vary based on the size of the counties and the like, but there is some standard and accountability. Just like we need to be held accountable for our performance, I think we can do some things at this point now that will benefit everyone.

MS. JOHNSON: The call center might be a good resource for that because I think that a frequently heard response is: well, that's up to your local tax assessor-collector. And the former president of the TACA and the current president are both very committed to us having standards. We are very willing to work to agree to one plan, so we're looking forward to that.

MR. KUNTZ: And that's really what those standards were in relationship to.

MR. INGRAM: Thank you.

MR. BRAY: If I could add on your characterization of 2017 as kind of an eclectic grouping

of changes, it was affectionately known at the agency as the cleanup bill. And when you say pretty broad, pretty much everything was directed towards giving the board as much flexibility as you can give the board, and it's essentially an effort, in my mind, to further complete what was started in 3097 when the board was created.

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MR. INGRAM: I apologize for having not read 2017, I'm afraid to even ask how many pages it is.

MR. VANDERGRIFF: I have another question for you. Can you also go back on the title services? I know Montgomery County was interested, and Senator Williams obviously represents Montgomery County. But if there is some ability within the code to regulate these title services, what was impetus or genesis in the first place for even attempting this?

And the second which I'll already answer was that it was an attempt, even though it perhaps was too much regulation, by the senator to make sure that whatever was trying to be done in one county that it really included the DMV and the state. And so I think that was a very positive step for this agency that that at least was part of the thought process, but go ahead.

MR. KUNTZ: The testimony that was given for that bill, for the title services bill, 1035, was really from Montgomery County and the problems that they were

having with these title service runners, and it really seemed almost to be two-tiered, one being title service runners that were coming in with either fraudulent documents or documents that were not completed correctly or in some fashion seemed like they were trying to game the system.

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The one that they really used as a prime example was the gift provisions of a statute allowing somebody to gift a vehicle to somebody else. They seemed like they were seeing a very large rise in the number of gift transfers that were going on which allows somebody to transfer a vehicle without paying the sales tax, they pay a \$10 transfer fee or whatever, and basically they were worried that the title service companies were pocketing the money, posing this as a gift, and transferring the title while they pocketed the tax dollars. So there really seemed to be a fraud element that they were really worried about.

The other was even beyond that in the fraud arena was people that weren't even coming into the county tax assessor-collector's office, they were setting up in a flea market, telling people that they could do this, collecting the money and then they were gone, they vanished. So these were people that were really just fly-by-night, working out of the back of a vehicle, and really

they felt like they didn't have recourse to try and go after these people and shut them down.

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Because of that issue, the senator had the penalty for operating without a license in the state as a state jail felony to really try and hammer that off. was one of the things that I think made it unappealing to the Governor's Office was that it was an extremely high penalty for operating without a license. So there were some issues there that they were trying to really resolve, but the impetus seemed to be coming out of the experience that Montgomery County was having and really what they wanted was kind of a state oversight. So they were looking to have a state license but also maintain a county permitting, and that two-tiered system was the other thing that looked to really cause problems because it seemed like a lot of bureaucracy in order to be able to operate a business. You had to get a state license and then you had to get a permit in every county in the state which required a permit which hypothetically could have been 254 separate permits.

MS. JOHNSON: Is it possible that that bill would have passed if we had eliminated the language that allows the county tax assessor-collectors to also license? Because it seems to me it was definitely a too much government situation, and we're under 500,000, obviously,

in my county and I don't want to be in the licensing business but I was fine with DMV being in control. But I can definitely see no company should be subject to both a state agency and a local office.

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MR. KUNTZ: I would hesitate to speak specifically for the Governor's Office, but that seemed to be one of those things that was troublesome for them. They referenced that in their veto proclamation that they thought there was a burdensome licensing scheme that was being put forward.

MR. WALKER: So nothing changed, life is just the way it was.

MR. KUNTZ: Correct, it is the same as it was yesterday.

MR. WALKER: Let's go back to this gifting deal you're talking about. If I were to give my car to Cheryl, can I do that?

MR. KUNTZ: You can but there are specific statutes, and that specific statute was actually tightened down further requiring an affidavit that is, I believe, notarized to be presented when you are giving a vehicle as a gift.

MS. JOHNSON: You can only give it to a family member, you cannot give it to me. I have to pay sales tax on the value of that gift.

1	MR. WALKER: So it has to be a family member
2	only.
3	MR. KUNTZ: Correct.
4	MS. JOHNSON: And only certain family members.
5	That's problematic.
6	MR. WALKER: What if I give it to my church?
7	MS. JOHNSON: They're tax-exempt, aren't they?
8	(General talking and laughter.)
9	MR. VANDERGRIFF: This may be discussion out of
10	the purview of the board meeting. Good discussion,
11	though.
12	Any further questions for Jeremiah on this?
13	(No response.)
14	MR. VANDERGRIFF: Again, thank you for great
15	work.
16	I would like to ask that perhaps at least on a
17	quarterly basis, both Jeremiah and Ed, that you come back
18	to us and report to us the progress of the implementation
19	on these bills because I'd like to be able certainly next
20	session before the session show this is what came through,
21	here's what the agency has done to meet the requests and
22	directives of the legislature.
23	MR. KUNTZ: And a large portion of those will
24	be implemented, a lot of stuff that needs to be
25	implemented will be implemented by September 1, most bills

have a September 1 deadline.

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MR. VANDERGRIFF: We want it all to work according to what people envisioned it working.

MS. JOHNSON: And something we're not talking about, because it happened last session, is fee simplification goes into effect September 1 too. So all of our renewal notices in August will reflect those new fees. We've already sent out press releases in my office. So that's coming.

MR. VANDERGRIFF: And that's hopefully one of those things where we get a lot of credit for having done that session before and that the public really perceives that well. I think that it will certainly be perceived well with the limited fees being charged.

I just think it's critical to keep producing, what have you done for me lately, that's what the legislature will be looking at next time. But that's good.

MR. KUNTZ: Thank you, sir.

MR. VANDERGRIFF: Thank you very much again.

We are going to continue to plow through a couple of items on the agenda in the hope that tomorrow can be a relatively short day. I don't know, Mr. Harbeson, if you are ready with the consent agenda. This is also at the pleasure of the board. If somebody feels

I'm rushing them, then you can please stop me. 1 MR. WALKER: I was just going to go ahead and 2. 3 make the motion. MR. VANDERGRIFF: Not even going to let him sit 4 down and clear his throat? 5 6 MR. WALKER: I think we did that to you once, didn't we, Bill? 7 8 MR. HARBESON: Several times. I sort of miss the chief not being here. Chief Rodriguez is normally 9 10 pretty quick on the motions. Again, my name is Bill Harbeson. I'm the 11 director of the Enforcement Division for the agency. 12 13 The board has before it 101 enforcement agreed orders, 24 notice of violation agreed orders, four motions 14 to dismiss by staff where enforcement actions were started 15 and now staff has decided to dismiss the case, seven Lemon 16 Law settlement and dismissal cases, and four franchise 17 cases where it's been decided that the case should be 18 dismissed. And we're asking the board to approve all of 19 these orders. 20 MR. VANDERGRIFF: I would be pleased to 21 entertain a motion for approval. 22 MR. BUTLER: So moved. 23 2.4 MR. INGRAM: Second. 25 MR. VANDERGRIFF: We have a motion by Director

Butler and a second by Director Ingram. All those in favor please raise your right hand.

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MR. WALKER: Wait, discussion.

MR. VANDERGRIFF: I was going to not ask for that, yes, based on your look, but do you have any discussion?

MR. WALKER: I do have one question for you before we vote on this, not that it's going to affect my vote. And I don't spend a lot of time going through every one of those consent items and looking at all 175 or whatever there was of them, but I did notice some disparity between the penalty being assessed to this person being \$500 and this person being \$1,000 for the exact same violation. Do we have any standard that says this is what the penalty is going to be?

MR. HARBESON: We have a schedule where for any given violation we have a recommended amount that we start from. From that the attorneys will often look at the history, the circumstances surrounding that, and increasingly we've been using dealer training in the appropriate cases to reduce the penalty. In other words, if the dealer as part of the settlement agrees to go to dealer training, we feel that's really what needs to be done in the case.

MR. WALKER: But that's in the consent agenda,

isn't it? 1 MR. HARBESON: Yes, sir. 3 MR. WALKER: But there's some fines in there, and what caught my eye was some larger ones, \$10,000 ones 4 in there where we had fined one person five and another 5 6 ten for the same. MR. HARBESON: That will normally be driven by 7 8 the history and the number of violations in a particular 9 case. MR. WALKER: And that's my question. 10 just not like today's a \$500 day and tomorrow is a \$600 11 day. 12 13 MR. HARBESON: No, sir. 14 MR. WALKER: Okay. I'm ready. MR. VANDERGRIFF: Thank you for your question. 15 We do have a motion and a second on the floor. Any 16 further questions? 17 18 (No response.) MR. VANDERGRIFF: Seeing none, I'd call for 19 20 your vote. Please raise your right hand in support of the motion. 21 (A show of hands.) 22 MR. VANDERGRIFF: The motion carries 23 unanimously. 24 25 Thank you, Bill. At least you got a chance to

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clear your throat and answer a question or two.

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The next item on the agenda is the 6.A, which is the adoption of rules under Title 43. Randy, are you ready to do that?

MR. ELLISTON: Good afternoon, Mr. Chair and members. For the record, my name is Randy Elliston. I am the director of Vehicle Titles and Registration Division for the Texas Department of Motor Vehicles.

Before you today is our request for approval for final adoption of amendments to the Texas

Administrative Code, Title 43, Chapter 217, Sections

217.28 concerning Specialty License Plates, Symbols, Tabs and Other Devices, also Section 217.40 concerning

Marketing of Specialty License Plates through a Private Vendor.

The amendment to 217.28 will change the website posting time period for new department and vendor specialty plates from 20 days before the meeting to 25 days, and the amendment to 217.40 will change the public comment deadline from seven days before the board meeting to ten days. These don't change any of the time period for the public to make their comment, however, what it does do is it allows staff more time prior to the board meeting to get the information together, collated and get it to you. So we're just asking that that time be moved

1	so that it will be more conducive to preparing things for
2	the board.
3	MR. WALKER: I so move that we accept the
4	resolution to change the rule on the time frame.
5	MR. ELLISTON: There's one other little
6	section. Are you going to do both of them?
7	MR. ELLISTON: No, sir. There's one other
8	thing that it changed in one of the sections. Currently
9	we have a requirement that a nonprofit organization for a
10	specialty plate when they apply they have to fill out an
11	IRS form which states that they are a nonprofit. IRS no
12	longer has that form so we're deleting that from the rule.
13	I think that's kind of an important piece to make sure
14	you understand that, we are deleting that. However, we
15	still have the ability to verify their nonprofit status
16	based on the Secretary of State's database.
17	So with that, we'd ask that you approve it.
18	MS. JOHNSON: I'll second his motion to
19	approve.
20	MR. VANDERGRIFF: We have a motion and a
21	second. Is that what I heard?
22	MR. WALKER: Yes.
23	MR. VANDERGRIFF: Any questions?
24	MR. INGRAM: I don't necessarily have a
25	question, I have a comment. Perhaps there seems to be a

lot of public comment about the license plate program and I think that there is a real lack of knowledge among the Texas citizens that this is a mandate by the legislature for us to try to promote license plates. Maybe something on this website that would make that clearer might be helpful to understand that we are not just randomly giving out license plates to any university that happens to apply. I don't know how to phrase that on the website.

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MR. ELLISTON: I think what you're asking is that we try to come up with someway to better inform the public of the fact that this is a statutorily mandated program and not something we just dreamed up as the DMV.

MR. INGRAM: I would love that.

MR. ELLISTON: We'll look into that and see what we can come up with. We've had a prohibition in the past regarding advertising so it was very difficult for us to do some of those things, but putting it on our website is certainly something we could look at.

MS. JOHNSON: And then if you could add to that, and correct me if I'm wrong -- and thank you, because I'm glad that you said something -- if we're not taking the public comments into consideration in our decision-making process, and I'm not certain that we are because even reading the rules it doesn't make a difference whether the public likes it or not, it's not

relevant to our decision. We're looking at reflectability, we're looking at being able to read it, DPS's input, but public comment truly isn't part of the decision-making process, is it? Because 90 percent of these plates that are going to be considered are not liked by the public but we're not going to interfere with this process or this vendor. I mean, is that a criteria that allows us to say no?

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MR. ELLISTON: Well, the board can take into consideration what they want to in making a decision of whether they approve a license plate or not, so it is something you can consider. That's why we provide you that information.

MR. BRAY: And let me refine that a little bit.

Yes, public comment is part of your criteria in your rule
that can be considered.

MS. JOHNSON: So it can be considered. So it's not legislated, it's by rule.

MR. BRAY: That's right.

MS. JOHNSON: But it's legislated that we have to receive public comment and it's by rule that we should consider those.

MR. BRAY: It's legislated we have to receive public comment and they put those kind of quirky parameters on it, and it's legislated that the board can

have rules about what it uses for criteria, and presently
the board does have a rule and the rule includes public
comment.

MR. ELLISTON: And one thing kind of odd about
the legislation also, when you look at it, and Brett said
it kind of has this quirky thing to it --

MR. BRAY: Technical term.

certainly use that in making your determination.

MR. ELLISTON: Okay, quirky is a technical term. It says we can post it for no more than a certain amount of time. It's like we don't want you to take any more than that particular amount of time. So we do provide that public comment to you and so you can

MR. BRAY: I would like to just point out, in defense of Mr. Serna and Mr. Elliston, that it's a tricky thing to put on our website the legislature is making us do this. You've got to be kind of careful.

MR. INGRAM: I understand the wording is important but there should be some way to word it elegantly.

MR. SERNA: And we understood that and we'll work on that.

MR. VANDERGRIFF: I actually made a note to myself to talk to you about that that if you put on there something like that.

MR. ELLISTON: It wouldn't have blinking lights around it and that sort of thing. But you're exactly right, there's a lot of folks that question that but we're obligated to move the program forward to the best ability that we can and to make it profitable for the state.

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MR. VANDERGRIFF: This does bring up a good point that the vice chair raised, and I know we're going to consider these individual plates later, but you literally look at the list this last time out of 26 plates and six of them actually had a greater percentage. Now, you do see a pattern, any out of state plate --

MR. ELLISTON: Any out of state university.

MR. VANDERGRIFF: -- is just hammered, and in Texas we love our Dallas Mavericks and San Antonio Spurs and we like Lone Star and Vintage license plates so you see a pattern there. But I don't know what that means. And that's what's hard for me as a board member, and I'm only speaking for myself personally, to know how to use this information as any real measure of anything.

MR. ELLISTON: Well, and we have no idea of where that's coming from, how many times does a particular person go on and lodge their dislike for it. When it's a group plate you may have a movement of folks that say we like this plate and it's all of the folks for that one plate. Then again, it could be a controversial plate

where you get a group of folks on the other side and they bombard the site with that.

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MR. VANDERGRIFF: And we have no ability to you click once and you can't vote again type thing, we have no ability to do that?

MR. ELLISTON: I don't think so. I mean, even if you did it would be a time period to the next day. I don't think that we can control that.

MS. JOHNSON: Unless you capture IP addresses and only allow one vote, because I think most of the newspapers are doing that right now so people can't sign in under different names, but then they could go to different computers.

MR. ELLISTON: I think the most value you get from it is if they raise an issue on a plate that we have not thought about. There could be something that we missed that somebody in the public would point out and we'd say oh, my, that is a big issue. If it's a like/dislike that's going to be the board, certainly your prerogative to do what you want to with the plate.

MS. JOHNSON: I'd be interested in knowing, though, if this isn't regulated that we have to consider this as part of our decision-making. I know you have to put it out there and I guess we should do something with it, but how much time and money is going into this effort

for possibly no good reason because we should basically reject. If we use this criteria of public comment as a balancing act to make a final decision, we wouldn't approve most of these.

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MR. WALKER: How would you ever use that in our decision-making process because if you said 51 percent of the people didn't like this and next month we approve a license plate that 52 percent of the people didn't like, now you've opened yourself up to a lawsuit saying: Hey, you did theirs at 52 and you didn't do ours at 51. So how do we utilize this information?

I know what the law says and maybe we're using it to the best of our ability which is we look at it, we go through there and say what is somebody saying about it, for our own good, but we're not making a decision based on that. And I don't see how you can.

 $$\operatorname{MR}.$$ ELLISTON: The information is provided to you to use.

MS. JOHNSON: We don't expect a response.

MR. ELLISTON: Okay. Well, you're looking at me like you do.

MS. JOHNSON: I would like to know about how much effort, how much agency resources are going into putting this out there, gathering this information and providing it to us, and is it a worthwhile expenditure of

funds. And that would be the question I would have is it this a worthwhile expenditure of funds.

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MR. ELLISTON: Well, in most of the things we do in the agency we try to be as transparent to the public and we try to give them an idea of what we're doing inside, and I think that there is some value to that to say: Here's what we're doing, these are the plates we're putting out there, give us your opinion. At least they have an opportunity to voice that opinion regarding the plate. Then it's up to the board's prerogative whether you use that.

MS. JOHNSON: But the best response whether the public likes it or not is whether they buy it or not, and so you're definitely getting public comment then.

MR. VANDERGRIFF: I can understand why we'd want to do it for the reason it's a criteria that can be used and the fact that it does go to that transparency question, but I would think that it's perhaps a good idea to formulate, based on some of the business issues you raised, not a disclaimer but something close to that. This is not a scientifically perfected study, people can multiple vote, the numbers can be skewed. And the big benefit is, as you said, that we could receive comments from people that might bring up something that we didn't think about or should think about, and I don't know, to

maybe work on that idea a little bit.

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Because I get concerned, particularly down the line, if they will look at -- and I'm just being hypothetical here, I again don't know how anybody feels about these plates -- but let's say all 26 of these plates go forward, and then someday somebody digs up the fact that I believe it was the University of Arizona plate had three-quarters of the people who registered saying they were opposed to this plate -- excuse me -- the Arizona was 86 percent were opposed, a huge number, and that theoretically could be one person who maybe went to U of A for their college, didn't like it, transferred to Texas and is just sitting there on a daily basis punching, punching, punching, punching, punching,

MR. INGRAM: You cannot prove I did that. (General laughter.)

MR. ELLISTON: And Brett may correct me, but the statute doesn't require us to do this but our board rule does. Is that correct?

MR. WALKER: No. That's statute.

MR. ELLISTON: It says we may, if I'm not mistaken, in the statute.

MR. BRAY: Do what?

MR. ELLISTON: To post this on the web for the comment.

MR. BRAY: That's right, but you've only got the ten days you can do it.

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MR. ELLISTON: It says we may do it, the board rule says we will post it for this amount of time. So if the board's prerogative was we didn't do it.

MR. VANDERGRIFF: Me personally, and the vice chair has a good point about looking at the cost versus what we get out of it or what we use it for, that's probably a good thing to do, but me personally, I'm in favor of doing it for the transparency issue you're talking about. It's just if the Arizona plate is approved and 86 percent of the public said they hated it, there has to be something to make people understand why we would do that.

MR. BRAY: I think Mr. Elliston can go away and get a chance to get the right answer and get it back to you, maybe even tomorrow, but I thought someone within the department has told me before that you can't vote more than once, that they have something built into the system that you can't.

MR. ELLISTON: I'll check on that.

MR. VANDERGRIFF: That would be all the more reason why you would want to listen to that 86 percent.

MR. ELLISTON: I'll check on that and find out and get you an answer back for tomorrow.

MS. JOHNSON: But I have at least three IP 1 addresses. 2. 3 MR. INGRAM: And it doesn't really matter because if it logs separate IPs, you can still have a 4 group, you can still have your whole fraternity group go 5 6 in and bombard it. IPs are not really going to be an 7 answer for you anyway. 8 MR. VANDERGRIFF: Well, we can take up the plates perhaps tomorrow because there's a question on 9 those, but I would like to go ahead and consider this 10 motion and second. 11 MR. BUTLER: I believe the motion and second is 12 13 already on the floor. MR. VANDERGRIFF: That's what I said. 14 believe we have the motion, I know we have the motion, but 15 I want to know if we have any further discussion. 16 17 (No response.) MR. VANDERGRIFF: Okay. So please raise your 18 right hand in support of the motion. 19 (A show of hands.) 20 MR. VANDERGRIFF: The motion carries 21 unanimously. 22 23 The next item is adoption of some rules under the Texas Administrative Code, and we have Aline on Motor 2.4 Carrier. 25

MS. AUCOIN: Good afternoon. For the record, 1 my name is Aline Aucoin. I'm an associate general counsel 2. 3 for the department. This resolution is for the adoption of 4 amendments to Sections 218.2 and 218.11 of Title 43 of the 5 6 Texas Administrative Code. The board previously authorized the posting of these amendments. 7 8 These amendments are merely housekeeping and clarifying rules to the Motor Carrier rules. One 9 amendment corrects the definition of a commercial motor 10 vehicle and another amendment merely makes the rule 11 consistent with the statute and clarifies that a valid US 12 13 DOT number is merely an active US DOT number. 14 The rules were posted in the Texas Register and we did not receive any comments. I respectfully request 15 the board to approve the adoption of these amendments to 16 Sections 218.2 and 218.11. 17 18 MR. WALKER: I so move that we accept the resolution as presented. 19 MR. BUTLER: Second. 20 MR. VANDERGRIFF: We have a motion and we have 21 a second by Director Butler. Any discussion? 22 23 (No response.)

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in support of the motion.

MR. VANDERGRIFF: Please raise your right hand

(A show of hands.)

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MR. VANDERGRIFF: The motion carries unanimously.

The next item is proposed rules under Title 43 of the Texas Administrative Code on Employment Practices and Employment Training and Education. Dawn.

MR. WALKER: For the record, we know your name.

MS. HEIKKILA: I think I still have to say it.

MR. VANDERGRIFF: Yes, she does.

(General laughter.)

MS. HEIKKILA: For the record, my name is Dawn Heikkila. I'm the chief operating officer for the Texas Department of Motor Vehicles.

The request before you is we're proposing a simplification of the department's training and education program by repealing Section 208.42 which is definitions, Section 208.44 which identifies particular program specifics, and the amending Section 208.43 which is the general standards as they pertain to our tuition assistance program.

The rule proposes modifying the existing program available to our DMV employees. This is a program that we've had since the beginning of time; it's also a program that came over from the Texas Department of Transportation. If we're going to continue to provide

this type of benefit to our employees, we're going to have to modify the way that we are providing this program so that we have a sustainable program we can afford.

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Back in the beginning of the fiscal year,

Executive Director Serna asked our HR folks to put

together a working group to look at this project, to go

out and look at what other state agencies were doing in

terms of tuition assistance programs, how they were

administering the programs, how they funded their programs

and what the requirements were.

And one of the reasons why we feel it's important to maintain this type of program is that it provides not only a benefit to the agency in terms of a better educated workforce which helps with succession planning, capitalizing on institutional knowledge and overall benefitting the programs that we provide, but it also provides a competitive edge in recruiting and retaining staff for the agency.

There are several agencies that actually maintain a tuition assistance program. The work group went out, looked at those programs, evaluated them and made recommendations for the new program based on their research.

The existing program that we have provides for 100 percent funding of tuition, fees and books up front

for the employee, they take the course, and then at the end of their graduation there's a service requirement. The new program provides for tuition and mandatory fees only capped at a composite rate based on the Texas Higher Education Coordinating Board's state university rates, and it provides for a reimbursement basis. The employees pay up front, they take the course, the course has to be related to their job, and once they pass the course then they'll get reimbursed for their tuition.

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If there's a difference between what they paid and what the agency will reimburse, the employee is responsible for the difference. We have some employees attending private universities or online universities and the tuition reimbursement rate was calculated based on public and state universities.

So it provides us an opportunity to continue this benefit for employees at a cost that we can afford.

MS. JOHNSON: I have one question. We provide training for certain employees and certification programs but I make anybody that I invest that kind of money in sign a two-year contract to stay with my organization at the completion of their graduation. Do we have anything like that? Because otherwise, you're just educating people that are going to go off and leave.

MS. HEIKKILA: That's definitely a risk. I

don't believe we can actually have an employment contract.

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MS. JOHNSON: I invest in them, they have to invest back in me, so I'll make the commitment to them but they have to commit to stay or they back a pro rata share of what I paid for them to be educated.

MR. SERNA: Yes, ma'am, based on how many years they have.

MS. JOHNSON: It's not an employee contract as much as a contract for education being reimbursed.

MR. SERNA: Yes, ma'am. And that's something that we should and we will explore adding to the program.

Under the existing program there's a provision similar to that and we could certainly go with some pro rated you have to stay two years, if you stay one year you owe us 50 percent of what we paid for that particular course, et cetera. We can certainly explore how we can accomplish that and do that.

What we have found right now is actually our tuition assistance program has helped us retain staff without the contractual obligation and it's been like that for some time, but when the economy turns back around and we have a better educated workforce, we could end up becoming an agency that's mined for staff and this would at least help us retain some of that knowledge for a brief period of time. So we'll certainly explore that.

What we'll do is we'll make the modification, 1 because this is just our request to post this rule for 2 3 public comment, so we will make that modification or some type of modification like that and then post it modified 4 like that for public comment. So we'll explore how we can 5 6 do that. MR. WALKER: Linda, if I'm not mistaken, when I 7 8 was going through the budget I think we spent \$173,000 in 2011 for education, I think we called it education and 9 something else. Can that be continuing education seminars 10 maybe? 11 MS. FLORES: Yes, sir. It was education and 12 13 training. MR. WALKER: Right, education and training. 14 And so how much of that is actually what would be 15 classified under this as continuing education? 16 MS. FLORES: \$150,000. 17 MR. WALKER: So \$150,000 of the \$173-? 18 MS. FLORES: Correct. 19 20 MR. SERNA: And this new proposal should reduce that number because that's based on a full reimbursement 21 including books and everything else, and here we're 22 23 eliminating those website fees. 2.4 MR. WALKER: Just tuition and the average state

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fee.

1	MR. SERNA: And we're also tying it to the
2	state universities' fees. Part of the purpose that I
3	engaged an employee group to put this together was to say
4	look, we can't be spending that kind of money but we still
5	want to have some kind of program, and that's what they've
6	come up with.
7	MR. WALKER: If we really want to make sure
8	they get a good education, we should make sure we exclude
9	the University of Texas from that.
LO	MR. SERNA: We were being university agnostic.
L1	(General talking and laughter.)
L2	MR. BUTLER: I would make the motion that we
L3	adopt the rule.
L4	MR. WALKER: I second that.
L5	MR. VANDERGRIFF: We have a motion from
L6	Director Butler, a second from Director Walker. Do we
L7	have any further questions or discussion?
L8	(No response.)
L9	MR. VANDERGRIFF: Thank you. Please raise your
20	right hand in support of the motion.
21	(A show of hands.)
22	MR. VANDERGRIFF: the motion carries
23	unanimously.
24	We're only going to take one more item up today
25	and that's Mr. Harbeson, your consideration for

enforcement motions. Do you consider that to be long or short?

MR. HARBESON: Short.

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MR. VANDERGRIFF: That's what I thought. And the what we have action for tomorrow are the two D and E under six, and then 7, and obviously let Randy speak a little bit before we start on a couple of the issues we saw today since we've got so many that don't like these plates.

MR. INGRAM: Where are we at now?

MR. VANDERGRIFF: I apologize. We're on 6.F,
Consideration of enforcement motions for disposition based
on default under Occupations Code, Chapter 2301.

MR. INGRAM: Thank you.

MR. HARBESON: My name is Bill Harbeson. I'm the director of the Enforcement Division.

Before the board today are 25 motions for disposition. These are, in essence, cases where staff has initiated the case, set it for hearing at SOAH, and then the respondent did not show up at the SOAH hearing, the case is then dismissed from SOAH and brought back to the agency for the board's action on these cases.

We're asking the board today to approve items 1 through 23 and 25. Item 24, after being posted we noticed that we had not followed one of the procedural

requirements for presenting it here at the board, that being obtaining a dismissal from the SOAH docket before bringing it back. So again, we're asking for approval of items 1 through 23 and item 25. After we correct item 24 we will bring it back at a future board meeting.

MS. JOHNSON: I move to approve 1 through 23 and 25.

MR. BUTLER: Second.

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MR. VANDERGRIFF: We have a motion from the vice chair, second from Director Butler. Any discussion?

MR. INGRAM: I have a question not really related to the motion. On these type of situations where no one shows up, it's kind of a default judgment, then you have people that go out and try to enforce this, or how do you actually go out from here?

MR. HARBESON: Well, we will send the order after it's been approved to the respondent. He'll then have actually an opportunity to ask for a re-hearing of the matter. After that, depending on what the order has actually provided for, we will enforce it. If it's a monetary forfeiture, that will go on the records. If he should to renew or apply for a license in the future, that would be a prerequisite before he would be granted a license. If it's a current license and a fine is imposed and he doesn't pay it within 30 days as ordered, we would

1	then go after him on a contempt basis, go after the
2	license.
3	MR. INGRAM: Okay. Just curious. Thank you.
4	MR. VANDERGRIFF: Everybody through with the
5	questions, comments? Please raise your right hand in
6	support of the motion.
7	(A show of hands.)
8	MR. VANDERGRIFF: The motion carries
9	unanimously. Thank you, Bill.
10	That leaves us with items 6.D, E and 7.A to
11	address tomorrow morning, starting at nine o'clock. I
12	guess all the parties are notified and will be here that
13	are interested, particularly under D and E.
14	MR. WALKER: So are all these parties being
15	represented, or do we know, on these hearings?
16	MR. VANDERGRIFF: I know on D that those
17	parties will be represented here, and on E, I don't know
18	if it's the individuals plus the various manufacturers
19	involved. Is everybody coming?
20	MR. HARBESON: As of last time I discussed this
21	with Mark, there weren't going to be people here.
22	MR. WALKER: No people?
23	MR. VANDERGRIFF: No people on E?
24	MR. HARBESON: On E.
25	MR. VANDERGRIFF: Okay. Well, just because

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we've been here and we're going to be here tomorrow 1 morning on the other two, just in case somebody shows, 2 3 we'll leave them for tomorrow just in case they show. MR. WALKER: And what about the franchise? 4 MR. VANDERGRIFF: We do have counsel and 5 6 representatives for that one. I'm not sure at this point do I put us into 7 recess for tomorrow? So do I need a motion for that or do 8 I just put us into recess? 9 MR. BRAY: I think you can just do it. 10 MR. VANDERGRIFF: All right. We stand in 11 recess until tomorrow morning at nine o'clock a.m. 12 13 you for attending. 14 (Whereupon, at 5:15 p.m., the meeting was recessed, to reconvene at 9:00 a.m., Thursday, July 14, 15 16 2011.)

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MEETING OF: Texas DMV Board

LOCATION: Austin, Texas

DATE: July 13, 2011

I do hereby certify that the foregoing pages, numbers 1 through 176, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Motor Vehicles.

 (Transcriber) (Date)

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